

SAN MIGUEL COUNTY LAND USE CODE

ARTICLE 5

STANDARDS

SECTION 5-1: GENERAL

This Article of the Code establishes land use standards applicable to land development in San Miguel County. Refer to Article 3 for procedures and Article 4 for submission contents.

SECTION 5-2: ESTABLISHMENT OF ZONE DISTRICTS AND OFFICIAL ZONING MAP

5-201 General

Land within San Miguel County is divided into the zone districts specified in this Section.

- A. High Density (HD) (Section 5-302)
- B. Medium Density (MD) (Section 5-303)
- C. Low Density (LD) (Section 5-304)
- D. Affordable Housing Planned Unit Development (AH) (PUD) (Section 5-305)
- E. Single-family Residential (R) (Section 5-306)
- F. Forestry, Agriculture, and Open (F) (Section 5-307)
- G. Heavy Commercial (HC) (Section 5-308)
- H. Low Intensity Industrial (I) (Section 5-309)
- I. Placerville Residential (PR) (Section 5-310)
- J. Placerville Commercial (PC) (Section 5-311)
- K. Mobile Home (MH) (Section 5-312)
- L. Park (P) (Section 5-313)
- M. Open Space (OS) (Section 5-314)
- N. Public (PUB) (Section 5-315)

- O. Scenic Foreground Overlay (SFO), Scenic View Plane (SVP) (Section 5-316)
- P. Planned Unit Development Reserve (PUDR) (Section 5-317)
- Q. Rangeland Grazing (RG) (Section 5-318)
- R. Wright's Mesa (WM) (Section 5-319)
- S. West End (WE) (Section 5-320)
- T. High Country Area (HCA) (Section 5-321)
- U. Low Density Residential (LDR) (Section 5-322)

5-202 Zoning Map and Boundaries

The location of the zoning districts hereby established are shown on the map entitled "Official Zoning Map of San Miguel County" (hereinafter referred to as "Zoning Map"), as may be amended pursuant to the procedures in this Code. Such map, including explanatory notes, is hereby made a part of this Code and is on file in the office of the County Clerk and Recorder. The zoning map, may, for convenience, be divided into units and each unit may, for purposes of more readily identifying areas within such zoning map, be subdivided into sub-units and each such unit may be separately employed for purposes of amending the Zoning Map or for any official reference to the Zoning Map.

Unless otherwise specified on the Zoning Map, district boundary lines are lot lines; the center lines of streets, alleys, highways, or such lines extended; corporate lines of incorporated areas; natural boundary lines such as streams; section lines or topographic lines.

5-203 Rezoning or Establishment of New Zone Districts

If amendments are made to the boundaries of the Zoning Map pursuant to the procedures in the Code, such amendments shall be entered on the Zoning Map promptly after amendment. However, regardless of whether such amendments have been so mapped, they shall be valid upon final approval by the Board of County Commissioners.

SECTION 5-3 ZONE DISTRICT STANDARDS

5-301 A. General

This section of the Code establishes standards for the use of land within zone districts. Uses not specifically listed in the various County Zone Districts that reasonably can be expected to produce impacts greater than the potential impacts of uses allowed by right are prohibited. Temporary uses with minimal adverse short-term impacts and reasonably necessary to achieve a valid public purpose or an approved project may be allowed for up to 45 days by administrative review.

5-301 B. Oil and Gas Development

Minor Oil and Gas Development in all Zone Districts shall be subject to Administrative Review in accordance with Section 5-26.

5-302 High Density (HD)

5-302 A. Purpose

- I. The purpose of the High Density (HD) Zone District is to provide areas suitable for high density, clustered, mixed-use development in accordance with the Telluride Regional Area Master Plan. The Master Plan includes an analysis of the Telluride Region's physical characteristics and the capability of the community to provide essential public services. The HD Zone District also provides a high density and mixed use development alternative to low density development as an incentive for the preservation of substantially more open space than could reasonably be required as part of a lower density development. Clustering of residential uses will be required to preserve environmentally sensitive lands and the scenic foreground as open space.
- II. Minimum requirements for approval of the residential densities and the nonresidential land uses allowed in the Zone District shall include appropriate guarantees for the protection of public health, safety and welfare, which shall include, but are not limited to, the provision of alternate transportation, recreational amenities and affordable housing, as described in the Telluride Regional Area Master Plan and in this Code (see Sections 5-13 and 5-20). In the absence of such guarantees and in the absence of the fulfillment of the other requirements set forth in the PUD process, non-environmentally sensitive lands will remain zoned either LD or PUDR and therefore will be subject to the standards of the applicable district, and environmentally sensitive lands will remain zoned either OS or PUDR and therefore will be subject to the standards of the applicable district.

5-302 B. Planned Unit Development (PUD) Procedure

All development proposed within the HD Zone District, except for proposed development of uses allowed by right, shall be reviewed pursuant to the Planned Unit Development (PUD) procedure to establish permitted uses and to allow variation from area and bulk requirements. Refer to Section 3-7 for PUD procedure and Section 5-14 for PUD standards.

5-302 C. Uses Allowed by Right

- I. Single-family dwellings with less than 12,000 sq. ft. of Floor Area.
For Single-family dwellings with greater than 5,000 sq. ft. Floor Area of but less than 12,000 sq. ft. of Floor Area: if the proposed residence is located within a subdivision or PUD with an established Home Owner's Association (HOA) that is responsible for administering an applicable design review board general declaration covenant requirement, the

applicant shall provide a written approval of the proposed building plan from the HOA as part of their Development Permit application;

- II. Customary residential accessory buildings and uses;
- III. Day care homes; and
- IV. Home occupations.

5-302 D Uses Allowed Subject to Administrative Review

- I. Accessory Dwelling Units. The Floor Area of the Accessory Dwelling Unit shall be included in the Calculation for employee housing Impact Fee mitigation as defined in, and is subject to, Section 5-13 of this Code; and
- II. Day care centers - allowed only on lots of at least one-half acre.

5-302 E Uses Allowed Subject to Board of County Commissioner Approval Pursuant to Planned Unit Development (PUD) Procedure

- I. Duplex residences;
- II. Multi-family residences;
- III. Tourist accommodations;
- IV. Commercial uses and personal services including the following and similar types of uses: clothing, hardware, drug, liquor, record, sporting goods, electronic and computer stores; barber or beauty shops, restaurant, cocktail lounge, movie theater, health club, grocery store of less than 12,000 square feet, dry cleaning and laundry pick-up station, laundromat, delicatessen, post office branch, television sales and service shop, shoe repair shop, camera and video rental and sale shop and gasoline service station without repair facilities; nothing to the contrary withstanding, no use shall be allowed that is incompatible with the nature of the applicable development;
- V. Conference facilities;
- VI. Offices and financial institutions;
- VII. Transportation terminals;
- VIII. Churches; and
- IX. Fire stations, schools and hospitals.

5-302 F. Area and Bulk Requirements Permitted by Right

I. Density - one dwelling unit per lot Minimum Lot Area - 35 acres

II. Setbacks

a) Front yard - 30 feet

b) Rear yard - 30 feet

c) Side yard - 30 feet

III. Maximum Building Height - 35 feet

5-302 G. Density, Area and Bulk Requirements Permitted Subject to Board of County Commissioner Approval Pursuant to the Planned Unit Development (PUD) Procedure

I. Density for Residential and Tourist Accommodation Units

Maximum Density - 80 persons per acre

Minimum Density - 40 persons per acre

The density of residential and tourist accommodation development may not be greater than 40 people per acre. Density is based upon the cumulative number of people to be housed as determined by the "population level" standards (see definition in Article 6).

II. Density for Commercial Development

Minimum lot area - Determined pursuant to Section 5-14

III. Setbacks - Determined pursuant to Section 5-14

IV. Maximum Building Height - Determined pursuant to Section 5-14

V. Maximum Floor Area Ratio (FAR) - Determined pursuant to Section 5-14

5-302 H. Minimum Common Open Space - 30 percent

5-302 I. Minimum Off-street Parking

Off-street parking shall be provided for each use as required in Section 5-702.

5-302 J. Review Standards for Land Uses and Area and Bulk Requirements Requiring Board of County Commissioner Approval pursuant to the Planned Unit Development (PUD) Procedure

An applicant seeking approval for any of the uses listed in Section 5-302 E. or approval to utilize the area and bulk requirements in Section 5-302 G. must demonstrate to the satisfaction of the Board of County Commissioners substantial compliance with the standards in this section:

- I. The use is consistent with the Land Use Policies (Article 2);
- II. Adequate public services such as roads, water, wastewater, public safety and fire protection are available to serve the proposed use and to insure the protection of the public health, safety and welfare in the Telluride Region;
- III. Adequate mitigation by the applicant of the incremental impacts on the community's existing public services;
- IV. The use minimizes or mitigates any materially adverse environmental impacts and generally utilizes the most environmentally suitable site;
- V. Any proposed structures are located outside the Scenic Foreground Overlay Zone District or are designed consistently with the Scenic Foreground Overlay standards;
- VI. The use is consistent with the relevant goals and objectives of the San Miguel County Comprehensive Development Plan;
- VII. In the Telluride Region, acceptable guarantees that fulfill the criteria set forth in the Telluride Regional Area Master Plan have been made for the provision of:
 - a. Adequate alternate transportation to serve the development (see Sec. 5-2001);
 - b. A sufficient quantity and quality of affordable housing to house the employees attributable to the proposed land use (see Section 5-1304);
 - c. A sufficient quantity and quality of recreational amenities to serve the residents of the development without overburdening existing off-site recreational facilities (see Section 5-803); and
- VIII. Any neighborhood commercial services are designed and planned to be compatible with the surrounding neighborhood (see Section 5-1403 B.) to reduce traffic generation, mitigate traffic circulation and parking problems

and serve the daily or frequent trade or service needs of the neighborhood.

5-302 K. Uses Allowed Subject to Two-step Special Use Permit Review

Single-family Dwellings greater than 12,000 sq. ft. require Planning Commission and Board of Commissioner Special Use Permit review pursuant to Section 5-307 L.

5-303 Medium Density (MD)

5-303 A. Purpose

- I. The purpose of the Medium Density (MD) Zone District is to provide areas suitable for clustered medium density residential development in accordance with the San Miguel County Comprehensive Development Plan. The Telluride Regional Area Master Plan includes an analysis of the Telluride Region's physical characteristics and the capability of the community to provide essential public services. Due to consideration of such factors as neighborhood compatibility, availability of community services and road capacities, lands zoned MD are capable of accommodating higher density development than can lands zoned LD. Clustering of residential uses will be required to preserve environmentally sensitive lands and the scenic foreground as open space.
- II. Within the Telluride Region, minimum requirements for approval of the residential densities proposed for the MD Zone District shall include appropriate guarantees for the protection of public health, safety and welfare, which shall include, but are not limited to, provision of alternate transportation, recreational amenities and affordable housing, as described in the Telluride Regional Area Master Plan and in this Code (see Sections 5-13 and 5-20). In the absence of such guarantees and in the absence of the fulfillment of the other requirements set forth in the PUD process, non-environmentally sensitive lands will remain zoned either LD or PUDR and therefore will be subject to the standards of the applicable district, and environmentally sensitive lands will remain zoned either OS or PUDR and therefore will be subject to the standards of the applicable district.

5-303 B. Planned Unit Development (PUD) Procedure

All development proposed within the MD Zone District, except for proposed development of uses allowed by right, shall be reviewed pursuant to the Planned Unit Development (PUD) procedure to establish permitted uses and to allow variation from the area and bulk requirements established in this section. Refer to Section 3-7 for PUD procedure and Section 5-14 for PUD Standards.

5-303 C. Uses Allowed by Right

- I. Single-family dwellings with less than 12,000 sq. ft. of Floor Area.
For Single-family dwellings with greater than 5,000 sq. ft. Floor Area of but less than 12,000 sq. ft. of Floor Area: if the proposed residence is located within a subdivision or PUD with an established Home Owner's Association (HOA) that is responsible for administering an applicable design review board general declaration covenant requirement, the applicant shall provide a written approval of the proposed building plan

from the HOA as part of their Development Permit application;

- II. Customary residential accessory buildings and uses;
- III. Day care homes; and
- IV. Home occupations.

5-302 D Uses Allowed Subject to Administrative Review

- I. Accessory Dwelling Units. The Floor Area of the Accessory Dwelling Unit shall be included in the Calculation for employee housing Impact Fee mitigation as defined in, and is subject to, Section 5-13 of this Code; and
- II. Day care centers - allowed only on lots of at least one-half acre.

5-303 E. Uses Allowed Subject to Board of County Commissioner Approval Pursuant to the Planned Unit Development (PUD) Procedure

- I. Duplex residences;
- II. Multi-family residences;
- III. Tourist accommodations;
- IV. Commercial uses including the following and similar: drug, liquor and sporting goods stores, barber and beauty shops, restaurants, cocktail lounges, clothing, electronic, camera and video rental stores, dry cleaning and laundry pick-up stations, gasoline service stations, and grocery store less than 3,000 square feet; nothing to the contrary withstanding, no use shall be allowed that is incompatible with the nature of the applicable development;
- V. Transportation terminals;
- VI. Fire stations;
- VII. Elementary, junior and senior high schools;
- VIII. Hospitals; and
- IX. Churches.

5-303 F. Area and Bulk Requirements Permitted by Right

- I. Density - one dwelling unit per lot

Minimum Lot Area - 35 acres

II. Setbacks

- a. Front yard - 30 feet
- b. Rear yard - 20 feet
- c. Side yard - 20 feet

III. Maximum Building Height - 35 feet

5-303 G. Density, Area and Bulk Requirements Permitted Subject to Board of County Commissioners Approval Pursuant to the Planned Unit Development (PUD) Procedure.

Maximum density will be determined pursuant to the standards established in Section 5-1403 F.

I. Density for Uses Permitted by PUD

Maximum overall residential density - 1 unit per 3 acres

II. Minimum Lot Area for lots final platted or replatted following the adoption of this Land Use Code:

- a. Single-family dwellings - 15,000 sq. ft.
- b. Duplex dwellings - 20,000 sq. ft.
- c. Multi-family dwellings - 20,000 sq. ft.
- d. Tourist Accommodations - 20,000 sq. ft.
- e. Commercial buildings - 10,000 sq. ft.
- f. Public buildings - 20,000 sq. ft.

III. Setbacks for all buildings located on lots final platted or replatted prior to the adoption of this Land Use Code:

- a. Front yard - 25 feet
- b. Rear yard - 20 feet
- c. Side yard - 12.5 feet

IV. Maximum Building Height - 35 feet

V. Maximum Floor Area Ratio (FAR) - Determined pursuant to Section 5-14

5-303 H. Minimum Common Open Space - 60 percent

5-303 I. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-303 J. Review Standards for Land Uses and Area and Bulk Requirements Requiring Board of County Commissioner Approval pursuant to the Planned Unit Development (PUD) Procedure

An applicant seeking approval for any of the uses listed in Section 5-303 E. or approval to utilize the area and bulk requirements in Section 5-303 G. must demonstrate to the satisfaction of the Board of County Commissioners substantial compliance with the standards in this section:

- I. The use is consistent with the Land Use Policies (Article 2);
- II. Adequate public services such as roads, water, wastewater, public safety and fire protection are available to serve the proposed use and an applicant adequately mitigates the incremental impacts on the community's existing public services;
- III. The use minimizes or mitigates any materially adverse environmental impacts and generally utilizes the most environmentally suitable site;
- IV. Any proposed structures are located outside the Scenic Foreground Overlay Zone District or are designed consistently with the Scenic Foreground Overlay standards;
- V. The use is consistent with the relevant goals and objectives of the San Miguel County Comprehensive Development Plan;
- VI. In the Telluride Region, acceptable guarantees (as described in the Telluride Regional Area Master Plan) have been made for the provision of:
 - a. Adequate alternate transportation to serve the development (see Section 5-2001);
 - b. A sufficient quantity and quality of affordable housing to house the employees attributable to the proposed land use (see Section 5-1304); and

- c. A sufficient quantity and quality of recreational amenities to serve the residents of the development without overburdening existing off-site recreational facilities (see Section 5-803); and

VII. Any neighborhood commercial services are designed and planned to be compatible with the surrounding neighborhood (see Section 5-1403 B.) to reduce traffic generation, mitigate traffic circulation and parking problems and serve the daily or frequent trade or service needs of the neighborhood.

5-303 K. Uses Allowed Subject to Two-step Special Use Permit Review

Single-family Dwellings greater than 12,000 sq. ft. require Planning Commission and Board of Commissioner Special Use Permit review pursuant to Section 5-307 L.

5-304 Low Density (LD)

5-304 A. Purpose

- I. The purpose of the Low Density (LD) Zone District is to provide areas suitable for clustered, low-density residential development in accordance with the San Miguel County Comprehensive Development Plan. The LD Zone District applies to areas so zoned already; it shall not provide a mechanism for rezoning areas not currently so zoned. The Telluride Regional Area Master Plan includes an analysis of the Telluride Region's physical characteristics and the capability of the community to provide essential public services. If land is developed under the LD Zone District, the rural characteristics of the land shall be preserved to the maximum extent possible by careful site planning and, if necessary, the clustering of development. Clustering of residential uses will be required to preserve environmentally sensitive lands and the scenic foreground as open space.
- II. Within the Telluride Region, minimum requirements for approval of the residential densities proposed for the LD Zone District shall include appropriate guarantees for the protection of public health, safety and welfare, which shall include, but are not limited to, provision of transportation (capital, facilities and equipment) necessary to serve the development, long-term operation and maintenance of the regional transportation system, recreational amenities and affordable housing, as described in the Telluride Regional Area Master Plan and in this Code (see Sections 5-13 and 5-20). In the absence of such guarantees and in the absence of the fulfillment of the other requirements set forth in the PUD process, all lands will be subject to the standards for uses and area and bulk requirements allowed by right.

5-304 B. Planned Unit Development (PUD) Procedure

All development proposed within the LD Zone District, except for proposed development of uses allowed by right, shall be reviewed pursuant to the Planned Unit Development (PUD) procedure to establish permitted uses and to allow variation from the area and bulk requirements established in this section. Refer to Section 3-7 for PUD procedure and Section 5-14 for PUD Standards.

5-304 C. Uses Allowed by Right

- I. Single-family dwellings with less than 12,000 sq. ft. of Floor Area.
For Single-family dwellings with greater than 5,000 sq. ft. Floor Area of but less than 12,000 sq. ft. of Floor Area: if the proposed residence is located within a subdivision or PUD with an established Home Owner's Association (HOA) that is responsible for administering an applicable

design review board general declaration covenant requirement, the applicant shall provide a written approval of the proposed building plan from the HOA as part of their Development Permit application;

- II. Customary residential accessory buildings and uses;
- III. Day care homes; and
- IV. Home occupations.

5-304 D. Uses Allowed Subject to Administrative Review

- I. Accessory Dwelling Units. The Floor Area of the Accessory Dwelling Unit shall be included in the Calculation for employee housing Impact Fee mitigation as defined in, and is subject to, Section 5-13 of this Code; and
- II. Day care centers - allowed only on lots of at least one acre.

5-304 E. Uses Allowed Subject to One-step Planning Commission Review

- I. Equestrian Centers (see Section 5-24).

5-304 F. Uses Allowed Subject to Board of County Commissioners Approval Pursuant to the Planned Unit Development (PUD) Procedure

- I. Fire stations;
- II. Duplex dwellings;
- III. Churches; and
- IV. Neighborhood Commercial Uses that offer goods and services needed by residents of the PUD on a daily or frequent basis, including convenience store, drug store, liquor store, self-service laundry and postal service substation.

5-304 G. Area and Bulk Requirements Permitted by Right

- I. Density - one dwelling unit per lot
Minimum Lot Area - 35 acres
- II. Setbacks
 - a. Front yard - 50 feet

- b. Rear yard - 50 feet
- c. Side yard - 50 feet

III. Maximum Building Height - 35 feet

5-304 H. Area and Bulk Requirements Permitted Subject to Board of County Commissioners Approval Pursuant to the Planned Unit Development (PUD) Procedure

I. Maximum Density - one unit per 7 acres

II. Setbacks

- a. Front yard - Determined pursuant to PUD procedure
- b. Rear yard - Determined pursuant to PUD procedure
- c. Side yard - Determined pursuant to PUD procedure

III. Maximum Building Height - 35 feet

5-304 I. Review Standards for Land Uses and Area and Bulk Requirements Requiring Board of County Commissioner Approval pursuant to the Planned Unit Development (PUD) Procedure

An applicant seeking approval for any of the uses listed in Sections 5-304 F. or approval to utilize the area and bulk requirements in Section 5-304 G. must demonstrate to the satisfaction of the Board of County Commissioners substantial compliance with the standards in this section.

- I. The use is consistent with the Land Use Policies (Article 2);
- II. Adequate public services such as roads, water, wastewater, public safety and fire protection are available to serve the proposed use and an applicant adequately mitigates the incremental impacts on the community's existing public services;
- III. The use minimizes or mitigates any materially adverse environmental impacts and generally utilizes the most environmentally suitable site;
- IV. Any proposed structures are located outside the Scenic Foreground Overlay Zone District or are designed consistently with the Scenic Foreground Overlay standards;
- V. The use is consistent with the relevant goals and objectives of the San

Miguel County Comprehensive Development Plan;

VI. In the Telluride Region, acceptable guarantees (as described in the Telluride Regional Area Master Plan) have been made for the provision of:

- a. Adequate transportation to serve the development (see Section 5-2001);
- b. A sufficient quantity and quality of affordable housing to house the employees attributable to the proposed land use (see Section 5-1304); and
- c. A sufficient quantity and quality of recreational amenities to serve the residents of the development without overburdening existing off-site recreational facilities (see Section 5-803); and

VII. Any neighborhood commercial services are designed and planned to be compatible with the surrounding neighborhood (see Section 5-1403 B.) to reduce traffic generation, mitigate traffic circulation and parking problems and serve the daily or frequent trade or service needs of the neighborhood.

5-304 J. Minimum Common Open Space - 60 percent

5-304 K. Minimum Off-street Parking

Off-street parking shall be provided for each use as required in Section 5-702.

5-304 L. Uses Allowed Subject to Two-step Special Use Permit Review

Single-family Dwellings greater than 12,000 sq. ft. require Planning Commission and Board of Commissioner Special Use Permit review pursuant to Section 5-307 L.

5-305 Affordable Housing Planned Unit Development (AH) (PUD)

5-305 A. Purpose

The purpose of the Affordable Housing Planned Unit Development (AH) (PUD) is to provide areas suitable for clustered affordable housing for persons (and their families) who live and earn their living primarily in the R-1 School District. The AH PUD Zone District may be applied as an overlay where other zoning currently exists to encourage a socioeconomic mix of residents in a development; however, neither the underlying zoning nor the affordable housing requirement associated with that zoning by Section 5-1303 may be affected by the overlay, and 100 percent of the increase associated with the AH PUD overlay must be subject to the County's R-1 Housing Deed Restriction (see Section 5-1304). The AH PUD Zone District is intended for lands currently serving this purpose and may be applied to any land in the Telluride Region.

5-305 B. Planned Unit Development (PUD) Procedure

All development proposed within the AH PUD Zone District, except for proposed development of uses allowed by right, shall be reviewed pursuant to the Planned Unit Development (PUD) procedure to establish permitted uses and area and bulk requirements. Refer to Section 3-7 for PUD procedure and Section 5-14 for PUD procedure.

5-305 C. Uses Allowed by Right

- I. Single-family residences;
- II. Day care homes; and
- III. Home Occupations.

5-305 D. Area and Bulk Requirements Permitted by Right

- I. Minimum Lot Area - 35 acres
- II. Setbacks
 - a. Front yard - 50 feet
 - b. Rear yard - 50 feet
 - c. Side yard - 50 feet
- III. Maximum Building Height - 35 feet

5-305 E. Uses Allowed Subject to Board of County Commissioners Approval Pursuant to the Planned Unit Development (PUD) Procedure

- I. Duplex dwellings;
- II. Single-family dwellings;
- III. Multi-family dwellings;
- IV. Fire stations, hospitals, schools and churches;
- V. Day care centers - allowed only on lots of at least one-half acre;
- VI. Neighborhood Commercial Uses that offer goods and services needed by residents of the PUD on a daily or frequent basis, including convenience store, drug store, liquor store, self-service laundry and postal service substation; and
- VII. Rooming Houses

5-305 F. Area and Bulk Requirements Permitted Subject to Board of County Commissioner Approval Pursuant to the Planned Unit Development (PUD) Procedure

- I. Maximum Density - 15 units per acre
- II. Minimum lot size - 6,000 square feet
Minimum lot area per dwelling unit (sq. ft.)
 - a. Single-family dwellings - 6,000
 - b. Duplex dwellings - 3,000
 - c. Multi-family dwellings - 2,900
- III. Minimum Setbacks
 - a. Front yard - 10 feet
 - b. Side yard - 5 feet
 - c. Rear yard - 10 feet
- IV. Minimum Open Space - 50 percent

V. Maximum Building Height - 35 feet

VI. Maximum Floor Area for all uses except duplex and multi-family residences

Lot Size sq. ft.	Allowable sq. ft. of Floor Area
6,000-9,000	1,800 sq. ft. of floor area, plus 24 square feet of floor area for each additional 100 sq. ft. in lot area up to a maximum of 3,240 sq. ft. of floor area.
9,000-15,000	3,240 sq. ft. of floor area plus 5 sq. ft. of floor area for each additional 100 sq. ft. in lot area up to a maximum of 3,540 sq. ft.
15,000-50,000	3,540 sq. ft. of floor area plus 4 sq. ft. of floor area for each additional 100 sq. ft. in lot area up to a maximum of 4,940 sq. ft. of floor area.
50,000 +	4,940 sq. ft. of floor area plus 1 sq. ft. of floor area for each additional 100 sq. ft. in lot area.

VII. Maximum Floor Area for duplex residences

Lot Size sq. ft.	Allowable sq. ft. of Floor Area
6,000-9,000	2,100 sq. ft. of floor area, plus 20 square feet of floor area for each additional 100 sq. ft. in lot area up to a maximum of 3,300 sq. ft. of floor area.
9,000-20,000	3,300 sq. ft. of floor area plus 6 sq. ft. of floor area for each additional 100 sq. ft. in lot area up to a maximum of 3,960 sq. ft.
20,000-50,000	3,960 sq. ft. of floor area plus 4 sq. ft. of floor area for each additional 100 sq. ft. in lot area up to a maximum of 5,160 sq. ft. of floor area.
50,000 +	5,160 sq. ft. of floor area plus 1 sq. ft. of floor area for each additional 100 sq. ft. in lot area.

VIII. Maximum Floor Area Ratio (FAR) for Multi-family buildings - 1:1

5-305 G. Review Standards for Land Uses and Area and Bulk Requirements Requiring Board of County Commissioner Approval pursuant to the Planned Unit Development (PUD) Procedure

An applicant seeking approval for any of the uses listed in Section 5-305 E. or approval to utilize the area and bulk requirements in Section 5-305 F. must demonstrate to the satisfaction of the Board of County Commissioners substantial compliance with the standards in this section.

- I. The use is consistent with the Land Use Policies (Article 2);
- II. Adequate public services such as roads, water, wastewater, public safety and fire protection are available to serve the proposed use and an applicant adequately mitigates the incremental impacts on the community's existing public services;
- III. The use minimizes or mitigates any materially adverse environmental impacts and generally utilizes the most environmentally suitable site;
- IV. Any proposed structures are located outside the Scenic Foreground Overlay Zone District or are designed consistently with the Scenic Foreground Overlay standards;
- V. The use is consistent with the relevant goals and objectives of the San Miguel County Comprehensive Development Plan;
- VI. The use is compatible with and similar to the predominant land use in the immediately adjacent neighborhood (e.g., multi-family uses would be considered compatible only if the predominant land use in the immediately adjacent neighborhood were multi-family);
- VII. Any neighborhood commercial services are designed and planned to be compatible with the surrounding neighborhood (see Section 5-1403 B.) to reduce traffic generation, mitigate traffic circulation and parking problems and serve the daily or frequent trade or service needs of the neighborhood; and
- VIII. All residential dwelling units developed within the Zone District are affordable housing deed-restricted pursuant to the "R-1 Housing Deed Restriction" concerning use and occupancy (refer to Section 5-1304 for the R-1 Housing Deed restriction).

5-305 H. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-306 Single-family Residential (R)

5-306 A. Purpose

The Single-family Residential (R) Zone District applies to areas so zoned already; it is not intended to provide a mechanism for rezoning areas not currently so zoned. The purpose of the R Zone District is to provide areas suitable for single-family residential use in the San Miguel Canyon and adjacent to the Town of Norwood and the communities of Slick Rock and Egnar. Variable densities of such residential use (not to exceed one unit per 9,375 sq. ft.) may be allowed depending upon the availability of approved water and sewer facilities.

5-306 B. Uses Allowed by Right

- I. Single-family dwellings;
- II. Day care homes; and
- III. Accessory buildings and uses.

5-306 C. Uses Allowed Subject to One-step Planning Commission Review

- I. Parks, playgrounds, playing fields, golf courses, tennis courts, outdoor ice-skating rinks and swimming pools;
- II. Churches and community meeting halls, libraries or other civic facilities;
- III. Medical and dental offices and clinics; and
- IV. Day care centers - allowed only on lots of at least one acre.

5-306 D. Uses Allowed Subject to Two-step Special Use Permit Review

- I. Fire stations;
- II. Boarding and rooming houses and rest homes;
- III. Public utility structures subject to the special standards in Section 5-709 and the standards for all Two-step Special Use Permits.

5-306 E. Area and Bulk Requirements allowed by Right

- I. Density

Minimum Lot Area - 35 acres

II. Setbacks

- a. Front yard - 30 feet
- b. Rear yard - 20 feet
- c. Side yard - 10 feet

III. Maximum Building Height - 35 feet

5-306 F. Area and Bulk Requirements allowed by PUD

I. Minimum Lot Area For Each Principal Use

- a. On land not served by approved water and approved sewage facilities - 2 acres
- b. On land served by either approved water or approved sewage facilities - 1/2 acre
- c. On land served by both approved water and approved sewage facilities -9,375 sq. ft.

II. Minimum Lot Width For Each Principal Use

- a. On land not served by approved water and approved sewage facilities 200 ft.
- b. On land and served by either approved water or approved sewage facilities 100 ft.
- c. On land served by both approved water and approved sewage facilities 75 ft.

III. Minimum Setbacks

- a. Front Yard - 30 feet
- b. Side Yard - 10 feet
- c. Rear Yard - 20 feet

IV. Maximum Height of Buildings - 35 feet

5-306 G. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-307 Forestry, Agriculture and Open (F)

5-307 A. Purpose

The Forestry, Agriculture and Open (F) Zone District is intended to preserve large, relatively remote areas of the County for resource, agricultural, open space and recreational purposes. These areas currently have minimum public facilities and services and are considered inappropriate for substantial development. Development activities in these areas should be limited to the minimal list of activities that are allowed under State and Federal laws. All permitted development should fully mitigate the effects of such development upon the environment and on the County's budget. Development and/or special uses are encouraged to be located outside environmentally sensitive land.

5-307 B. Uses Allowed by Right

- I. Single-family dwellings with less than 12,000 sq. ft. of floor area, mobile homes and accessory uses and accessory buildings with footprints less than 3,000 sq. ft. (if such buildings and uses are not part of normal and customary agriculture and ranching activities);
- II. Day care homes;
- III. Logging operations resulting in hauling of up to 5,000 board feet in any 12-month period beginning with commencement of hauling;
- IV. Normal and customary agriculture and ranching activities; and
- V. Home Occupations.

5-307 C. Uses Allowed Subject to Administrative Review

- I. Caretaker unit - a second residential unit may be allowed on all parcels, except no caretaker units shall be allowed in the San Miguel Canyon Area. Such unit shall be attached to or located within 300 feet of the primary residence (as measured between the closest exterior walls). Such unit shall contain no more than 2,000 sq. ft. of floor area, and shall contain full kitchen and bathroom facilities. The Floor Area of the caretaker unit shall be included in the calculation for employee housing Impact Fee mitigation as defined in Section 5-13 of this Code. No lease or rental of a caretaker unit shall be less than 30 days or more than five years. Caretaker units shall not be conveyed or sold separately from the remainder of the parcel and shall remain under the same ownership as the primary residence;
- II. Day care centers - allowed only on parcels of at least two acres;
- III. Ski area trails and slopes. The Planning Director shall require the

developer to demonstrate that off-site impacts are mitigated in accordance with the standards in Section 5-10. If the impact mitigation plan does not meet these standards, the development shall be subject to One-step Planning Commission Review pursuant to Section 5-10;

- IV. Logging operations resulting in hauling of between 5,000 and 300,000 board feet in any 12-month period beginning with commencement of hauling; and
- V. Minor Oil and Gas exploration, drilling and pipelines, including wells, and geophysical operations (refer to Section 5-26).

5-307 D. Uses Allowed Subject to One-step Planning Commission Review

- I. Parks, playgrounds, playing fields, tennis courts, outdoor ice-skating rinks and swimming pools;
- II. Churches and community meeting halls, libraries or other civic facilities;
- III. Lumber mills;
- IV. Horseback riding and sleigh ride operations, and outdoor recreation areas and camping areas (subject to compliance with Standards in Section 5-307 J.);
- V. Cemeteries subject to Section 5-307 K. and wind turbines for residential use over 35 feet in height;
- VI. Junkyard, including garbage dump and sanitary fill, subject to C.R.S. 43-1-501, et seq.;
- VII. Conditional Uses on Federal Lands – Mineral Exploration and Mining and Logging, subject to applicable State and Federal statutes and regulations;
- VIII. Hunting Lodges;
- IX. Bed and Breakfasts, subject to Section 5-307 I;
- X. Construction/Contractor Office and Staging Area;
- XI. Private Schools; and
- XII. Accessory Structure with a footprint greater than 3,000 sq. ft. (if such structure is not part of normal and customary agriculture and ranching activities).

5-307 E. Uses Allowed Subject to One-step Board of County Commissioner Review

- I. Open Land Protection, subject to the standards in Section 5-1207.
- II. Logging operations resulting in hauling of more than 300,000 board feet in any 12-month period beginning with commencement of hauling, in accordance with all provisions of Sections 5-10 and 5-17.

5-307 F. Uses Allowed Subject to Two-step Special Use Permit Review

- I. Water treatment plants;
- II. Airports, sanitary landfill operations and sewage disposal areas, subject to Section 5-307 K.;
- III. Kennels and veterinary hospitals;
- IV. New ski area base facilities (also subject to the provisions of Section 5-1303 D.I.), ski lifts and related buildings, parking and incidental facilities (also subject to the provisions of Section 5-1303 D.II.);
- V. Public utility structures, including dams and reservoirs (refer to Section 5-709);
- VI. Music or other festivals with anticipated attendance of more than 200 people;
- VII. Hotels, subject to Section 5-307 I.;
- VIII. Aircraft Landing Areas;
- IX. Commencement and/or expansion of mining and mineral processing operations, including sand and gravel operations, in accordance with all provisions of Sections 5-10 and 5-16;
- X. Wind Turbines for commercial uses;
- XI. Golf Courses subject to a conceptual joint work session with the Planning Commission and Board of Commissioners prior to the applicant submitting engineering documents and survey drawings (subject to compliance with Standards in Section 5-1004);
- XII. Single-family Dwellings greater than 12,000 sq. ft. of Floor Area on a minimum of 35 acres shall comply with the standards in Section 5-307 L. (LUC Section 5-10 does not apply).

XIII. Major Oil and Gas Facilities, including compressor stations, gas treatment facilities and pipelines (refer to Section 5-26).

5-307 G. Area and Bulk Requirements

- I. a. The minimum lot size for each principal use is 35 acres except for single-family residential dwellings approved pursuant to the subdivision exemption standards for Open Land Protection (see Section 5-1207).
- b. Any legally created parcel less than 35 acres in the F Zone District may qualify for a building permit for one single-family dwelling unit, provided the parcel meets the criteria set forth in Section 5-1908.
- II. Minimum Setbacks
 - a. Front Yard - 30 feet
 - b. Side Yard - 20 feet
 - c. Rear Yard - 20 feet
- III. Maximum Height of Buildings - 35 feet

5-307 H. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-307 I. Hotel, Guest Ranch, and Bed and Breakfast Standards for the F Zone District. In addition to complying with the standards for special uses in Section 5-10, hotels shall comply with the standards in this section:

- I. Neither activity nor traffic associated with a hotel may materially and/or substantially adversely affect ranching or farming operations, residences or scenic quality of land surrounding State or County roads;
- II. All hotel buildings must comply with the setbacks and height restrictions;
- III. Minimum Lot Size - 40 acres;
- IV. Maximum occupancy may be limited depending upon impacts on surrounding property;

- V. Accessory facilities within the hotel complex may include restrooms and showers;
- VI. Full meals must be provided for overnight guests and may be provided for others;
- VII. Exterior lighting must be shielded to prevent direct visibility of light bulbs from off-site. All exterior lighting shall be directed toward either the ground or the surface of a building. High-intensity sodium-vapor and similar lighting shall be prohibited;
- VIII. Affordable housing for hotel employees may be allowed as an accessory use;
- IX. Any other conditions necessary to preserve the character of the F Zone District and protect wildlife habitat may be applied to hotels in the F Zone District;
- X. Population density allowed, including for all Affordable Housing required and/or requested, shall not exceed the density allowed for the acreage of the subject parcel at one single-family residential unit per 35 acres (except south of Wright's Mesa and Beaver Canyon);
- XI. Sole access to the hotel parcel may not be achieved by aircraft, and all access roads must meet all applicable County road standards (except south of Wright's Mesa and Beaver Canyon); and
- XII. The hotel parcel shall be deed restricted against any future subdivision (except south of Wright's Mesa and Beaver Canyon).
- XIII. An existing hotel or guest ranch that is nonconforming solely because it includes density beyond that allowed pursuant to this Section 5-307 I. is eligible to become a permitted use under this Section, provided that the population density, including Affordable Housing for employees, is not increased.

5-307 J. Camping and Outdoor Recreation Areas and Incidental Facilities Standards

In addition to complying with the standards for special uses in Section 5-10, camping and outdoor recreation areas and incidental facilities shall comply with the standards in this section.

- I. Such areas may be occupied only by persons using travel trailers, truck campers and tents for overnight and short duration camping (4-month maximum);

- II. Each space for travel trailers, truck campers and tents shall be at least 1500 sq. ft. in area;
- III. Each space shall be at least 30 ft. in width;
- IV. Each camping area shall provide a central water supply and shall have one sewage system;
- V. The source, quality, quantity, distribution system, volume and method of storage of water, and the method of collection and treatment of sewage and wastewater shall be approved by the Colorado State Department of Public Health;
- VI. No dependent travel trailer, truck camper or tent shall be located more than 200 ft. from a service building; and
- VII. Provisions shall be made for adequate all-weather walkways to each space.

5-307 K. Airports, Cemeteries, Sanitary Land Fill Operations and Sewage Disposal Areas
Standards

In addition to complying with the standards for special uses in Section 5-10, airports, cemeteries, sanitary land fill operations and sewage disposal areas facilities shall comply with the standards in this section.

- I. Such uses shall serve an obvious public need;
- II. Sufficient distance shall separate such uses from incompatible abutting properties; and
- III. Satisfactory proof shall be given that such areas will be properly maintained.

5-307 L. Single-family Dwellings over 12,000 sq. ft. of Floor Area on a minimum of 35
acres

- I. Such dwellings must include one Caretaker or Accessory Dwelling Unit (depending upon Zone District) subject to the County R-1 Housing Deed Restriction, as provided in Section 5-1302 B. II. g., of at least 800 sq. ft. but no greater than 2,000 sq. ft. for a Caretaker Unit and of at least 700 sq. ft. but no greater than 800 sq. ft. for an Accessory Dwelling Unit.

II. Submission Requirements:

- a. A Site plan shall be provided including:
 - i. building plan, including location and dimensions of structures;
 - ii. typical elevations/heights of buildings;
 - iii. topography;
 - iv. existing landscaping and proposed landscaping plan;
 - v. lighting plan; and
 - vi. existing structure and uses on adjacent parcels.
- b. Applicant shall address Land Use Code Section 5-21 Scenic Quality Standards. Each developer shall describe in detail how the visual impact of the proposed development on neighboring developments and public use areas shall be mitigated.

III. Review Standards:

- a. Demonstration of compliance with the Prescriptive Energy Code and Green Building Standards as adopted by Board of County Commissioner Resolution 2005-44;
- b. Provisions to provide renewable energy sources such as, but not limited to, passive solar design, wind, geothermal, photovoltaic, hydrogen fuel cells, etc.;
- c. Parcel size and preservation of Open Space;
- d. The use shall be consistent with and compatible with the Character of the neighborhood of the parcel proposed for development and surrounding land uses;
- e. Compatibility with the Character of Parcels adjacent to the Parcel shall be expressed in terms of appearance, scale and features, Site design, landscaping, weed seed dispersal, as well as, the control and Minimization of adverse Impacts including Noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, Impacts on pedestrian and traffic congestion, parking, trash, service delivery, or other undesirable or hazardous conditions; and
- f. Demonstration of Compliance with Scenic Quality standards in Section 5-2101.

5-308 Heavy Commercial (HC)

5-308 A. Purpose

The Heavy Commercial (HC) Zone District is intended to protect existing commercial areas and consolidate the location for new commercial activities. Examples of potential development under this zone, as suggested in the Master Plan, could be an out-of-town parking complex for Telluride (with related commercial facilities), or a small industrial park outside of Norwood. Although some light industrial uses could be appropriate for this Zone District, heavy industrial activity would not be, and would be better accommodated through the special permit process in the Agriculture, Forestry and Open (F) Zone District. It is intended that the HC Zone District be located so that the heavy commercial activity and its accompanying noise and/or smell is compatible with neighboring land uses.

5-308 B. Uses Allowed Subject to One-step Planning Commission Approval

- I. Warehouses, lumberyards, and building supply sales;
- II. Manufacturing and processing businesses;
- III. Light industrial, research and development facilities;
- IV. Public facilities (excluding those allowed in the F Zone District);
- V. Feed and seed stores;
- VI. Auto sales;
- VII. Auction houses;
- VIII. Construction contractors;
- IX. Commercial laundries, dry cleaning plants and self-service laundries;
- X. Affordable housing for persons employed on-site;
- XI. Day care centers - allowed only on lots of at least one acre; and
- XII. Gasoline service stations and auto repair shops, which shall comply with the standards for special uses in Section 5-10 and the following standards:
 - a. Conditions of soil, groundwater level, drainage and topography shall not create hazards to life or limb;

- b. There shall be one contiguous roof covering all operations;
- c. All gas storage tanks shall be subject to all relevant state, federal and/or National Fire Protection Association Code standards;
- d. All outdoor storage areas shall be enclosed with opaque fences or closely planted landscape material sufficient in height to conceal such facilities from adjacent property;
- e. Exposed ground surfaces in all parts of a service station or auto repair shop shall be paved or covered with stone screening or other solid material, or protected with a vegetative growth capable of preventing soil erosion and eliminating objectionable dust;
- f. An adequate drainage system shall be designed and installed to ensure that corrosive materials, petroleum wastes, etc., do not contaminate the natural drainage system;
- g. Adequate and safe water supply and sewage system shall be provided;
- h. All refuse shall be stored in fly-tight, watertight, rodent-proof, dog-proof containers;
- i. Vehicles shall not be stored in the public right-of-way before, during or after servicing;
- j. All automotive equipment on the premises must carry a current registration and show a work order with a reasonable completion date, not to exceed 30 days. Automotive equipment for which the shop or service station operator has no valid registration and work order shall be classified as salvage and junk and may not be kept, stored or worked on in an auto repair shop or service station;
- k. Access roads and parking areas shall be designed so that no traffic hazards are created. The location and design of all access road which abut a State Highway shall be reviewed and approved by the Colorado State Department of Highways to ensure safety and conformance to its adopted action plan for the area; and
- l. No unusual amounts of dust, noxious odors or noise shall be normally disseminated beyond the boundaries of the property on which the shop or service station is located.

XIII. Waste Transfer Station/Recycling Center

5-308 C. Area and Bulk Requirements

I. For single uses:

- a. 1/2 acre minimum lot size
- b. 100 ft. width
- c. 25 ft. setbacks
- d. 35 ft. height limit

II. For multiple uses:

- a. 2 acre minimum lot size
- b. 200 ft. minimum lot width
- c. 50 ft. setbacks all sides
- d. 35 ft. height limit

5-308 D. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-309 Low Intensity Industrial (I)

5-309 A. Purpose

The Low Intensity Industrial (I) Zone District is intended to provide for the establishment of non-polluting manufacturing, warehouse, research and repair facilities. The I Zone District also is intended to accommodate retail uses accessory to primary non-retail uses.

5-309 B. Uses Allowed by Right

- I. Single-family dwellings; and
- II. Day care homes.

5-309 C. Area and Bulk Requirements Permitted by Right

- I. Minimum Lot Area - 35 acres
- II. Setbacks
 - a. Front yard - 50 feet
 - b. Rear yard - 30 feet
 - c. Side yard - 20 feet
- III. Maximum Building Height - 35 feet

5-309 D. Uses Allowed Subject to Board of County Commissioners Approval Pursuant to the Planned Unit Development (PUD) Procedure

Use allowed include, but are not limited to the following and similar types of uses:

- I. All uses allowed in the HC Zone District;
- II. Appliance and equipment rental, storage and repair;
- III. Automobile washing facilities;
- IV. Electrical and plumbing service shops;
- V. Commercial bakeries;
- VI. Computer product sales and service;

- VII. Printing and publishing plants;
- VIII. Telecommunications supply;
- IX. Utility service facilities;
- X. Day care centers - allowed only lots of at least one acre;
- XI. Affordable Housing, accessory to a principal use, for persons employed within the PUD, and Live-work Housing (as defined in Section 5-1305 B. X.); and
- XII. Business and Professional Offices.

5-309 E. Height, Area and Bulk Requirements allowed by PUD

- I. For single uses:
 - a. Minimum lot size - 6,000 square feet;
 - b. Minimum lot width - 50 feet;
 - c. Minimum side and rear yard setback - 10 feet;
 - d. Minimum front yard setback - 30 feet;
 - e. Maximum height - 35 feet; and
 - f. Maximum Floor Area Ratio (FAR) - 0.50:1.
- II. For multiple uses:
 - a. Minimum lot size - 21,500 square feet;
 - b. Minimum lot width - 75 feet;
 - c. Minimum side and rear yard setback – 10 feet;
 - d. Minimum front yard setback - 30 feet;
 - e. Maximum height - 35 feet;
 - f. Maximum Floor Area Ratio (FAR) - 0.50:1.

5-309 F. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-310 Placerville Residential (PR)

5-310 A. Purpose

The purpose of the Placerville Residential (PR) Zone District is to provide areas and design standards for single-family residences surrounding the Placerville Commercial (PC) Zone District.

5-310 B. Uses Allowed by Right

- I. Single family dwellings;
- II. Accessory buildings and uses;
- III. Day care homes; and
- IV. Day care centers - allowed only on lots of at least one-half acre.

5-310 C. Uses Allowed Subject to One-step Planning Commission Review

- I. Parks, playgrounds, playing fields, golf courses, tennis courts, outdoor ice-skating rinks and swimming pools.

5-310 D. Uses Allowed Subject to Two-step Special Use Permit Review

- I. Fire station; and
- II. Boarding and rooming houses and rest homes.

5-310 E. Area and Bulk Requirements

- I. Minimum Lot Area for each Principal Use:
18,750 sq. ft. or 5 platted lots.
- II. Minimum Setbacks
 - a. Front Yard - 30 feet, or an average of the front yard setbacks on adjoining properties
 - b. Side Yard - 10 feet
 - c. Minimum Rear Yard - 20 feet
- III. Maximum Height of Buildings - 35 feet

5-310 F. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-311 Placerville Commercial (PC)

5-311 A. Purpose

The purpose of the Placerville Commercial (PC) Zone District is to provide standards for commercial establishments located on Front Street in Placerville and at the southwest corner of the intersection of State Highways 62 and 145 west of Placerville. The size of the PC Zone District shall not be increased.

5-311 B. Standards for All Development

All development in the PC Zone District shall comply with the following standards.

- I. Conditions of soil, groundwater level, drainage and topography shall not create hazards to persons or the natural environment.
- II. All outdoor storage areas shall be enclosed with non-reflective opaque fences or closely planted landscape material sufficient in height to conceal such facilities from adjacent property.
- III. All Scenic Quality standards of Section 5-2101, and all Sign standards of Section 5-704.

5-311 C. Uses Allowed by Right

- I. Any use permitted by right in the Placerville Residential Zone District (refer to Section 5-310 B.), subject to all requirements specified in the PR Zone District;
- II. Business and Professional Offices and Neighborhood Commercial Uses offering goods and/or services needed by local and/or regional residents on a daily or frequent basis, including but not limited to the following and similar uses: Grocery Store up to 3,000 sq. ft., Drug store, Bookstore, Barber Shop, Hardware Store, Dry Goods Store, Auto Parts Store; and
- III. Art Studios, Galleries and Craft Shops.

5-311 D. Uses Allowed Subject to One-step Planning Commission Review

- I. Woodworking Shops and Small Manufacturing Operations;
- II. Repair Shops other than for Automobiles;
- III. Trades Businesses, such as Plumbing, Heating, Electrical, etc.;

- IV. Restaurants, eating and drinking facilities;
- V. Liquor stores;
- VI. Bed and breakfast, Gallery;
- VII. Bakery; and
- VIII. Accessory Rental Dwelling Units for Persons Employed in the PC Zone District; such units may be owned only by the owner of a primary non-residential use and may not be condominiumized.

5-311 E. Uses Allowed Subject to Two-step Special Use Permit Review

- I. Fire station;
- II. School;
- III. Museum;
- IV. Park, playground, playing field, tennis court;
- V. Public utility service and repair facilities (subject to Section 5-709 standards);
- VI. Auto Repair Garages and Gasoline Service Stations and accessory retail uses, subject to the provisions of Section 5-308 B.XII.;
- VII. Grocery Store more than 3,000 sq. ft.; and
- VIII. Any building on Front Street larger than 6,500 square feet, subject to a determination that the building will not be in conflict with the historic character of Front Street.

5-311 F. Area and Bulk Requirements

- I. Minimum Lot Area for each Principal Use:
 - a. Without Central Sewer Service - At least 7,500 sq. ft. (2 platted town site lots) per building, in accordance with Colorado State Guidelines on Individual Sewage Disposal Systems (adopted pursuant to CRS 10-25).
 - b. With Central Sewer Service - At least 3,750 sq. ft. (1 platted town site lot) per building.

II. Minimum Setbacks:

- a. Front Yard - 5 ft.
- b. Side Yard - 3 ft., with 0 ft. setback allowed with firewall meeting requirements of the Uniform Building Code and the appropriate fire protection district.
- c. Rear Yard - 20 ft.

III. Maximum Height of Buildings - 28 ft.

IV. Maximum Building Size - 6,500 sq. ft., or pursuant to Section 5-311 E.VIII.

5-311 G. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-311 H. Customer Access

Customer access shall be obtained primarily from Front Street.

5-312 Mobile Home (MH)

5-312 A. Purpose

The purpose of the Mobile Home (MH) Zone District is to regulate parcels so zoned already. Future mobile home parks shall be developed under the Planned Unit Development (PUD) procedure.

5-312 B. Planned Unit Development (PUD) Procedure

All development proposed within the MH Zone District shall be reviewed pursuant to the Planned Unit Development (PUD) procedure to establish permitted uses and to allow variation from the area and bulk requirements established in this section. Refer to Section 3-7 for PUD procedure and Section 5-14 for PUD Standards.

5-312 C. Uses Allowed by Right

- I. Single family dwellings; and
- II. Accessory buildings and uses.
- III. Individual mobile homes;
- IV. Mobile home parks, subject to the provisions of Section 5-312 E.; and
- V. Day care center (must be licensed by the State and must receive County approval of water and sewage systems).

5-312 D. Area and Bulk Requirements

- I. Minimum Lot Area for Allowed Uses and Individual Mobile Homes:
 - a. On unsubdivided land - 2 acres;
 - b. On subdivided land not served by approved water and sewer facilities - 2 acres;
 - c. On subdivided land served by either approved water or sewer facilities - 1/2 acre;
 - d. On subdivided land served by both approved water and sewer facilities - 7500 sq. ft.

II. Minimum Lot Width For all Allowed Uses and Individual Mobile Homes:

- a. On unsubdivided land - 200 ft;
- b. On subdivided land not served by approved water and sewer facilities - 200 ft;
- c. On subdivided land served by either approved water or sewer facilities - 60 ft;
- d. On subdivided land served by both approved water and sewer facilities - 60 ft.

III. Minimum Setbacks:

- a. Front Yard - 20 feet
- b. Side Yard - 7 feet
- c. Rear Yard - 10 feet

IV. Maximum Height of Buildings - 35 feet

5-312 E. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702.

5-312 F. Mobile Home Park Standards

- I. Plans and specifications shall be prepared describing in reasonable detail the proposed improvements;
- II. Conditions of soil, groundwater level, drainage and topography shall not create hazards to life or limb;
- III. The site shall not be exposed to objectionable smoke, noise, or odors;
- IV. Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust;
- V. Mobile homes shall be separated from each other and from other buildings and structures by at least 15 feet;

- VI. All mobile homes shall be located at least 25 ft. from any park property boundary lines;
- VII. All streets shall be paved with a smooth, hard and dense surface that shall be at least 20 ft. in width;
- VIII. All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use;
- IX. An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park;
- X. An adequate and safe sewage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such systems shall be designed, constructed and maintained in accordance with regulations of the Colorado Department of Public Health;
- XI. All refuse shall be stored in fly-tight, water-tight, rodent-proof, dog-proof containers, which shall be located no more than 150 ft. from each mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse;
- XII. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation; and
- XIII. Any natural gas piping systems, liquefied petroleum gas systems, and electrical wiring systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

5-313 Park (P)

5-313 A. Purpose

The Park (P) zone is intended to preserve existing public and private parks and allow for the development of future parks. The P Zone District is intended to ensure that non-federal land intended for recreation use is developed so as to serve its intended use while not exerting a disruptive influence on surrounding land uses. All federally owned land shall remain zoned Forestry, Agriculture and Open (F). The P Zone District is differentiated from the Open Space (OS) Zone District in that active recreational uses are allowed in the P Zone District while they are specifically prohibited in the OS Zone District.

5-313 B. Uses Allowed By Right

- I. Park;
- II. Playfield, playground;
- III. Passive and active open-air recreation facilities;
- IV. Botanical gardens, nursery;
- V. Open-air riding arena;
- VI. Golf course; and
- VII. Tennis courts.

5-313 C. Uses Allowed Subject to One-step Planning Commission Approval

- I. Recreation building;
- II. Park maintenance building;
- III. Amphitheater;
- IV. Covered or enclosed picnic facilities;
- V. Sport shop;
- VI. Restaurant;
- VII. Campgrounds;
- VIII. Activity centers; and

IX. Ski trails, slopes, lifts and related buildings and incidental facilities.

5-313 D. Area and Bulk Requirements

Structures developed within the P Zone District must be built in accordance with the development plan adopted by the Planning Commission pursuant to the One-step Review Procedure. Such plan will establish the appropriate height, setback, lot size and width, floor area ratio and parking requirements as are appropriate and necessary to insure uses are kept within the purpose of the P Zone District.

5-314 Open Space (OS)

5-314 A. Purpose

The Open Space (OS) Zone District is intended to preserve land within view corridors, floodplains, wetlands, riparian areas and big game habitats in its natural character for public or private use or enjoyment. The OS Zone District requires the preservation of natural features, view corridors and environmentally sensitive areas. The OS Zone District shall be applicable to land dedicated to and/or owned by a public or quasi-public entity, but may also include portions of large, privately owned parcels.

The OS Zone District includes some lands previously zoned Forestry, Agriculture and Open (F). For private ownership parcels with split zoning (a parcel with more than one zone district) the development should be located on the portion of the property not zoned OS. In all cases where the OS Zone District has been applied to private lands previously zoned F, the allowed density under the F Zone District (1 unit/35 acres) may be clustered on adjoining acreage (under the same ownership) not zoned Open Space, Park or High Country.

The Open Space Zone District is a transition area between the Town of Telluride, the Telluride Regional Airport, areas of clustered low-density residential development and the surrounding hillsides and mountainous areas some of which are in the High Country Area Zone District. The areas in the Telluride Region zoned OS include lands owned by the Telluride Regional Airport Authority that are intended to prevent development of uses and structures that are incompatible with airport operations, reclaimed mine tailing piles and lands in the vicinity of the Pandora Mill site in the east end of the Telluride Valley, lands owned by San Miguel County that are subject to a Conservation Easement, and privately owned lands adjacent to the Town of Telluride. Many of these OS zoned properties are on steep hillsides and are subject to Geologic Hazards that include but are not limited to avalanche areas, potentially unstable slopes, debris flow, rockfall areas, and slopes greater than 30 percent. In addition to these natural hazards these hillside areas can be seen from many places in the Town of Telluride, public use areas and the surrounding mountainsides, therefore any development, particularly the development of residences, has the potential for significant environmental and visual impact on the overall character of the Telluride Region. Any development of structures in the OS Zone District should undergo a Administrative Review to ensure that these natural hazards will be avoided or will be properly mitigated, the proposed development will be safe, and to the greatest extent possible the structure(s) should appear to blend in with the hillside and/or immediate surrounding topography so the natural landscape is preserved and the residence will have minimal visibility from State Highway 145, Colorado Avenue, CR K69, the Town of Telluride and public use areas. Development of residences on property within the OS zone district should be sited, designed and built to maximize the perception of Open Space.

5-314 B. Uses Allowed by Right

I. Uses as defined in Article 6 Definitions for Passive Open Space.

A Development Permit may be required for these uses.

5-314 C. Use Allowed by Administrative Review:

The purpose of the County Planning Department Administrative Review is to provide staff an opportunity to work with an owner or developer to minimize the impacts of development on the environment, to ensure that the proposed development adequately avoids or mitigates natural and geologic hazards, to reduce the visual impacts associated with access roads, driveways, cut and fill areas, site and building lighting, and to ensure that the site improvements and the mass, scale and form of a residential structure is consistent with the Purpose of the OS Zone District. Visually overpowering building forms, where the mass and scale of the proposed structures are significantly larger and incompatible with the surrounding area, should be avoided.

I. Single-family residences, including customary residential uses and underground utility service.

- a. Buildings are to be placed in locations that minimize visibility. Avoid placing buildings at high points on the site or in other highly visible areas. In no case shall residential development occur above the 9050 foot elevation line in the OS Zone District.
- b. To the greatest extent possible, cutting and filling of sloping areas should be avoided but where it must occur, the visual impacts should be minimized. Use natural materials to minimize visual impacts. Buildings that cut into slopes are encouraged where they can help minimize the perceived mass and scale. Roof slopes that repeat the slope of the hillside are encouraged.
- c. Large picture windows of glass that reflect toward the Town of Telluride, State highway 145, Colorado Avenue, County Road K69, and public use areas are to be avoided.
- d. All exterior lighting fixtures shall utilize recessed light sources, shielded fixtures, low intensity lighting, or other features to minimize visual impact of light sources as seen from the Town of Telluride, public use areas, or from other areas of the hillside.
- e. Submitted site plans. The following siting and design guidelines will be considered during the Administrative Review for a Development Permit or Building Permit by the Planning Department, which may be approved with or without conditions.

The submitted plans should:

1. Consider ways to minimize disturbances of natural topography and retain natural vegetation of substantial size, including trees, shrubs and other natural landscape features in place, or relocate them within the site. Include a landscaping plan. Use of natural plantings rather than non-native ornamental materials is encouraged.
2. Minimize the height of walls and retaining devices and use natural materials to minimize visual impacts.
3. Minimize the visual impact of a structure from the Town of Telluride, State Highway 145, Colorado Ave, County Road K69, and public use areas.
4. Consider shared driveways and clustered parking areas to minimize disturbance to natural landscape.
5. Include a lighting restriction plan. Position lighting to minimize visual impacts as seen from lower viewpoints that may affect the night character of the community.
6. Visually overpowering building forms should be avoided. Low profile buildings are encouraged.
7. Buildings that cut into slopes are encouraged where they can help minimize the perceived mass and scale.
8. Step buildings down at hillside edges, to minimize visual impacts and reduce the apparent height.
9. Roof forms that protect views of significant features and existing view corridors are encouraged.
10. Designs that blend with the character of the natural hillside in material, muted colors and texture are encouraged.

- II. Wildlife friendly fences for the protection of certain natural features, as prescribed in Land Use Code Section 5-407 A. and or as recommended by the Colorado Parks and Wildlife.

5-314 D. Uses Allowed Subject to One-step Board of County Commissioner Approval

- I. Specific Uses allowed in accordance with Article 6 Definition of Active Open Space.
- II. Vehicular and pedestrian bridges and roads open to the public;
- III. Necessary access for public and private utilities not associated with an allowed Single-family Residence;
- III. Minor flood control activities limited to proper control measures using natural vegetation, provided aesthetics are considered;
- V. Land to be rehabilitated back to its natural state.
- VI. Alternative energy, such as solar panels, to serve the Single-family Dwelling.

5-314 E. Area and Bulk Requirements

I. Minimum Lot Area

- a. The minimum lot size for a single-family dwelling unit use is 35 acres.
Any legally created parcel less than 35 acres in the OS Zone District may qualify for a development permit for one single-family dwelling.

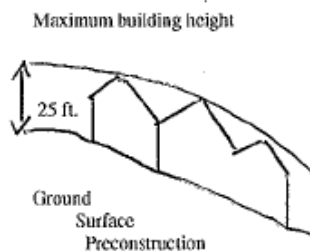
II. Minimum Setbacks

- a. Front Yard – 30 feet
- b. Side Yard – 20 feet
- c. Rear Yard – 20 feet

The Planning Director may consider a reduction to a setback if it allows the structure to be less visible from the valley floor or surrounding mountain side areas through an Administrative Review. Such setback shall not be less than 10-feet.

III. Maximum Height of Building – 25 feet

The maximum height of buildings in the OS shall be measured according to the following provision and method which is intentionally different than the definition of Height contained in Article 6 of the LUC: The maximum height of 25 feet shall be measured from preconstruction grade. Height shall be measured as the length of any line which is plumb from a plane located at the highest building point, which plane is above and parallel to the original, pre-construction grade of the building site coverage area. The following diagram illustrates this principle:



IV. Maximum Single-family Residence Square Footage Allowed – 3,500 of Floor Area

- a. An additional 500 square feet of Floor Area may be allowed for an attached garage within or as a part of the single-family residential dwelling.

- b. Below grade floor area which qualifies as a basement as defined by the current adopted County Building Code, does not count toward the maximum allowed Floor Area.
- c. Maximum footprint 3,500 square feet.
- d. Accessory structures are prohibited.

5-314 E. Minimum Off-street Parking

Off-street parking shall be provided for each principal use as required in Section 5-702. All parking shall be onsite.

5-314 F. Residential Fences

Privacy fencing for gardens, decks and patios shall be located within 20-feet of the Single-family Residence and no higher than 30 inches. Perimeter fencing of a lot or lots is prohibited.

5-314 G. Water and Sewage Disposal

It is preferred that water and wastewater disposal be provided from municipal or community systems, if available, to minimize site disturbance. If municipal or community utility services are not available individual wells and/or individual sewage disposal systems shall be sited and designed to minimize site disturbance to the maximum extent possible. Applicants are encouraged to meet with the County Environmental Health Director to identify the types of sewage disposal system that may be best suited for the site and that minimizes site disturbance.

5-315 Public (PUB)

5-315 A. Purpose

The purpose of the Public (PUB) Zone District is to provide for the development of public uses, facilities and services for governmental, civic, educational, humanitarian health care and other public purposes consistent with County land use plans and policies and to provide for related uses which are customarily incidental or accessory to public uses, facilities and services. Development activity in the zone shall be based upon the adoption of a master plan.

5-315 B. Uses Allowed Subject to One-step Planning Commission Approval

- I. Hospitals;
- II. Libraries;
- III. Schools;
- IV. Cemeteries;
- V. Fire Stations;
- VI. Police Stations;
- VII. Public Museums;
- VIII. Water and Sewage Treatment Plants;
- IX. Public Airports;
- X. Accessory Affordable Housing for employees employed on-site;
- XI. Road Maintenance Facilities; and
- XII. Animal Shelter.

5-315 C. Criteria for Uses Allowed Subject to One-step Planning Commission Approval

To grant approval for the uses listed in Section 5-315 B., the Planning Commission must find that, in addition to meeting the criteria for special uses subject to One-step Planning Commission Approval (See Section 5-1002), the use:

- I. Provides basic or fundamental services on which the community is

dependent for support;

- II. Is available to serve the general public and serves principally the local community;
- III. Meets an essential public purpose that is not adequately provided by the private sector;
- IV. Fulfills the functions and obligations of a publicly elected body or is mandated by legislation, ordinance or statute; and
- V. Is, or is a subsidiary of, a not-for-profit-venture.

5-315 D. Area and Bulk Requirements

- I. Minimum lot size - Established by Planning Commission.
- II. Minimum lot width - Established by Planning Commission.
- III. Minimum Setbacks
 - a. Side and rear yard - 10 feet
 - b. Front yard - 30 feet
- IV. Height limit - 35 feet
- V. Maximum Floor Area Ratio (FAR) - 0.50:1

5-315 E. Minimum Off-street Parking

The number of off-street parking spaces shall be established by One-step Planning Commission Approval pursuant to the standards in Section 5-702.

5-316 Scenic Foreground Overlay (SFO) and Scenic View Plane (SVP)

5-316 A. Purpose

The Scenic Foreground Overlay (SFO) and Scenic View Plane (SVP) Zone District is intended to establish a scenic resource area including those lands proximate to and most visible from State Highway 145 which substantially contribute to the unique visual character of the Telluride Regional Area and/or the entrance to Telluride. The purposes of establishing the SFO and SVP are to steer development away from the most highly visible sites and to insure that developments are designed to complement the natural features within transportation corridors so as to maintain an aesthetically pleasing, rural approach to Telluride. Land development previously allocated to areas within the SFO and SVP Zone District may be clustered elsewhere on a site, as may be appropriate.

5-316 B. Applicability

Development on any parcel of land that falls within or is crossed by the boundary of the SFO or SVP Zone District as designated on the officially adopted San Miguel County Zoning Map is subject to review to determine the conformance with the standards in Section 5-316 C.

5-316 C. Development Standards - Subject to Planning Commission Review

Development within the SFO and SVP Zone District shall generally comply with the standards in this Section and shall be subject to review by the Planning Commission. Compliance with every standard is not required, but developments shall comply with the cumulative intent of these standards:

- I. Utilize existing topography such as dry ridges and hills to screen buildings to the maximum extent possible from the State or County road system.
- II. Design developments to complement the natural topography of the land, whenever possible and appropriate.
- III. Utilize innovative architectural techniques such as earth sheltered design and clustering of structures in the least visible portion of the site.
- IV. Design structure height and bulk to avoid to the maximum extent possible visibility from the State and County road systems.

- V. Avoid locating uses on the highest ground or most visible sites from the State and County road systems.
- VI. Locate development outside of the SFO and/or SVP Zone District, or on a suitable site with the least possible visual impact on the State and County road systems.
- VII. Avoid development within wetland and wildlife habitat areas.
- VIII. Shield exterior lighting to prevent direct visibility of light bulbs from off-site. All exterior lighting shall be directed toward either the ground or the surface of a building. High-intensity sodium-vapor and similar lighting shall be prohibited;
- IX. Utilize landforms and earth moving to complement and enhance development rather than as primary devices for screening development from the State and County road systems.
- X. Cluster development outside the SFO and/or SVP Zone District to minimize visual impacts.

5-317 Planned Unit Development Reserve (PUDR)

5-317 A. Purpose

The Planned Unit Development Reserve (PUDR) Zone District is intended to define maximum long-term development potential of specific, large parcels of land under contiguous ownership in the Telluride Region (See Section 5-1403 F.). PUD Reserve status for a contiguous parcel provides a transition between designation under the San Miguel County Comprehensive Development Plan and final zoning. No development shall occur under the PUDR Zone District. An applicant desiring to develop a PUD Reserve must obtain PUD approval for the entire parcel. However, portions of a Reserve may be given different rezoning designations as necessary to implement the Telluride Regional Area Master Plan. PUDR applies only to existing parcels so zoned already; PUDR shall not be applied to any additional parcels.

5-317 B. Development Potential

The development potential assigned to a given parcel through the PUDR Zone District is based on classifying the Reserve land into one of three categories:

- I. High Density - as shown on the specific PUD Reserve Map (see Section 5-317 F.)
- II. Environmentally Sensitive - includes all land:
 - a. within wetlands (designated by the Army Corps of Engineers and/or the Environmental Protection Agency) or the 100-year floodplain,
 - b. within 50 feet of the centerline of any perennial stream,
 - c. with slopes of 35 percent or greater encompassing at least one acre, and
 - d. with known geologic hazard areas, wildlife migration corridors and/or critical wildlife habitats.
- III. Residential - all lands not classified as High Density or Environmentally Sensitive

5-317 C. Calculating Development Potential

For the purpose of calculating development potential, densities are

assigned to each land type as follows:

- I. High Density - 40 units per acre
- II. Environmentally Sensitive – None
- III. Residential - 1 unit per 3 acres

5-317 D. Density of Residential Development

The density of residential development in the PUDR Zone District is based upon the cumulative number of people to be housed in various types of housing, as follows (as per the Telluride Regional Area Master Plan, Section III. A.):

- I. Hotel or lodge unit 1.5 people
- II. Accessory unit (caretaker type)..... 1.5 people
- III. Hotel efficiency unit 2.0 people
- IV. One-bedroom condominium unit 2.5 people
- V. Minor duplex or secondary unit 2.5 people
- VI. Two-bedroom or larger condo unit ... 3.0 people
- VII. Single family house or residence 4.0 people
- VIII. Major duplex unit or primary unit 4.0 people

5-317 E. Sub-districts and Designated Uses

Assigning sub-districts within parcels zoned PUDR can help define development potential by indicating specific locations for and sizes of various types of development.

- I. High Density Accommodations
 - a. Purpose - The purpose of this sub-district designation within a PUDR is clustering of tourist-oriented accommodations. Densities are high to allow for preservation of open space and scenic vistas.
 - b. Uses Allowed by Right - All Uses Allowed by Right in the Forestry, Agriculture and Open (F) Zone District - see

Section 5-307.

- c. Maximum Density - 40 units per acre.

II. Residential

- a. Purpose - The purpose of this sub-district designation within a PUD Reserve Zone District is to promote the placement of large-lot, single-family dwelling units in appropriate locations.
- b. Uses Allowed By Right - All uses permitted in the Forestry, Agriculture and Open (F) Zone District - see Section 5-307, and in the Low Density (LD) Zone District - see Section 5-304.
- c. Maximum Density - 1 unit per 3 acres.

III. Light Industry/Public Utility

- a. Purpose - The purpose of this sub-district designation within a PUD Reserve Zone District is to allow for light industry and public utility uses in appropriate locations.
- b. Uses Allowed By Right - All uses permitted in the Low Intensity Industrial (I) Zone District - see Section 5-309, and in the Forestry, Agriculture and Open (F) Zone District (see Section 5-307).

IV. Planned Open Space

- a. Purpose - The purpose of this sub-district designation within a PUD Reserve Zone District is to preserve open space and to indicate lands intended for general open space, agricultural, park and cultural and/or educational use that would not compromise the preservation of open space.
- b. Uses Allowed By Right - Normal and customary ranching and agriculture-related activities and all uses allowed by right in the Park (P) Zone District - see Section 5-313, and in the Open Space (OS) Zone District - see Section 5-314.

V. Special Use Permit

Uses allowed with a special use permit in all sub-districts within the PUDR Zone District shall be those uses allowed through

special use permit in the Forestry, Agriculture and Open (F) Zone District - see Section 5-307 F., as long as such uses are compatible with the overall PUDR zoning.

5-317 F. PUD Reserve Map

Mylar maps for each of the existing PUD Reserves are retained by the County and the owner of the Reserve parcel. Each PUD Reserve Map, at a scale of 400 feet = 1 inch or larger, shows the boundaries of the Reserve and its sub-districts. The maps also show maximum unit counts and densities.

5-317 G. Development and PUD Approval Procedure

At such time as a parcel owner is ready to proceed with any development within a PUD Reserve, the developer shall apply for PUD approval of the entire parcel. Sub-districts may receive different final zoning designations as necessary to implement the Telluride Regional Area Master Plan. All development plans shall be processed via the PUD Procedure (see Section 5-14).

5-318 Rangeland Grazing (RG)

5-318 A. Purpose

The Rangeland Grazing (RG) Zone District is intended for the grazing of livestock, and for other uses related to and attendant to and compatible therewith. The RG Zone District shall apply only to lands within the Official East Wilson Mesa Zoning District established by a plat approved by the Board of County Commissioners on Aug. 20, 1979 and recorded at Book 1, Page 169, in the Office of the Clerk and Recorder of San Miguel County.

5-318 B. Uses Allowed by Right

- I. Single-family residence on at least 35 acres;
- II. Grazing Operations - A grazing operation shall consist of one or more grazing units (a grazing unit shall consist of a tract of 40 or more contiguous acres, or an entire quarter-quarter section), and shall be permitted one-single family residence together with outbuildings and corrals commensurate with the grazing operation; and;
- III. Accessory buildings and uses.

5-318 C. Uses Allowed by Special Use Permit Subject to Two-Step Planning Commission and Board of County Commissioner Review.

- I. Commencement and/or expansion of mining and mineral processing operations, including sand and gravel operations, in accordance with all provisions of Sections 5-10 and 5-16.

5-318 D. Uses Allowed by Special Use Permit Subject to Two-Step Planning Commission and Board of Commissioner Review on Parcels 320 Acres or Larger and where the property is subject to a permanent Conservation Easement, or a similar legally binding preservation instrument, that is intended to protect, preserve and maintain the ongoing private ranching, agriculture and historic use of the property in perpetuity.

- I. Sporting Uses: including but not limited to hunting, guiding, and outfitting, cross-country skiing, horse-drawn sleigh/wagon rides, and horseback riding consistent with the historic use and frequency of use of the property and the terms of the permanent Conservation Easement or applicable preservation instrument.
- II. Social and Scenic Uses: such as a location for weddings,

meetings, retreats, reunions, video and film photo shoots and commercials consistent with the historic use and frequency of use of the property and the terms of the Conservation Easement or applicable preservation instrument.

5-318 E. Review Standards for All RG Special Uses listed or authorized in 5-318 C. and 5-318 D. shall:

- I. Be consistent with the Purpose of the RG Zone District (5-318 A.).
- II. Be consistent with the terms and conditions of the applicable Conservation Easement or preservation instrument.
- III. Be found to comply with submittal requirements and review Standards for Special Uses contained in Section 5-10.
- IV. Be granted specifically to the applicant and/or the owner and do not run with the land and are not transferable to another owner.

5-318 F. Uses Expressly Prohibited

- I. Industrial uses including but not limited to industrial parks, sawmills and feed lots;
- II. General commercial uses including but not limited to hotels, motels, restaurants, mobile home parks and convention and retreat centers;
- III. Mobile homes and manufactured housing as residences; and
- IV. Recreational commercial uses including but not limited to dude ranches, hunting and guide services and riding stables except where the Board of County Commissioners has approved a Special Use Permit for a specific recreational commercial use in accordance with Sections 5-318 D. and 5-318 E.

5-319 Wright's Mesa (WM)

5-319 A. Purpose

The Wright's Mesa Zone District is identified by the map adopted in the Wright's Mesa Master Plan. The Zone District is intended to preserve the rural and agricultural character of Wright's Mesa while encouraging compatible, diverse economic opportunities that fit in with the rural landscape. Wright's Mesa has a history of co-existing agriculture and ranching, residential and small business uses that comprise its rural character.

The WM District discourages the large-lot pattern of sprawl typically created through 35-acre development by offering alternatives and incentives to cluster buildings, retain open lands and keep large parcels whole. The tradeoff for flexibility in uses and densities on Wright's Mesa is that development cannot adversely affect neighbors and detract from the rural character.

Each WM parcel is allowed a single-family dwelling, home occupation and/or normal and customary agriculture and ranching activities, plus either a second Principal Use (whether by Right or Special Review), or a Secondary Unit (pursuant to Section 5-319 D.), or a Subdivision Exemption for Wright's Mesa (pursuant to Section 5-1210). Section 5-319 K. establishes review standards for all special uses in the WM Zone District.

Development Permits (other than those associated with Building Permits, Sign Permits, or Oil and Gas Exploration and Development) are not required in the WM Zone District.

5-319 B. Uses Allowed by Right on Parcels Less than 150 Acres

- I. Normal and customary agriculture and ranching activities;
- II. Single-family dwellings (including mobile homes) and accessory buildings;
- III. Day care homes;
- IV. Logging operations resulting in hauling of up to 15,000 board feet in any 12-month period beginning with commencement of hauling;
- V. Home occupations;
- VI. Equestrian activities and private riding stables with structures up to

3,000 sq. feet; and

VII. Bed and Breakfasts with five or fewer rooms for rent.

5-319 C. Uses Allowed by Right on Parcels 150 Acres and Larger

I. All uses allowed in Section 5-319 B.;

II. Additional Uses allowed with 100' setbacks on all sides:

- a. Logging operations resulting in hauling of up to 50,000 board feet in any 12-month period beginning with commencement of hauling;
- b. Equestrian activities and private riding stables with structures up to 6,000 sq. feet;
- c. Hunting Lodges (including Hunting Camps) and Guest Ranches accommodating up to 20 overnight guests;
- d. Animal breeding and/or boarding operations and animal kennels; and
- e. Fruit and vegetable stands.

5-319 D. Uses Allowed Subject to Administrative Review

I. Secondary Dwelling Unit - a second dwelling unit shall be allowed on parcels 5 acres or larger, provided that:

- a. no uses other than a single-family dwelling, home occupation and/or normal and customary agriculture and ranching activities exist on the property, and
- b. no Subdivision Exemption for Wright's Mesa has been granted for the parcel, and
- c. the parcel was not created through a Subdivision Exemption for Wright's Mesa.

Such unit may be attached to or located within 300 feet of the primary residence (as measured between the closest exterior walls). Such unit shall contain no more than 2,000 sq. ft. of floor area, and shall contain full kitchen and bathroom facilities. Second Dwelling Units shall not be conveyed or sold separately from the remainder of the parcel and shall remain under the same ownership

as the primary residence;

- II. Logging operations resulting in hauling of up to 300,000 board feet in any 12-month period beginning with commencement of hauling in accordance with all provisions of Sections 5-319 K. and 5-17;
- III. Open Land Protection Subdivision Exemption for four or fewer lots (see Section 5-1207); and
- IV. Minor Oil and Gas exploration, drilling and pipelines, including wells, and geophysical operations (refer to Section 5-26).

5-319 E. Uses Allowed Subject to One-step Planning Commission Special Use Permit Review (see Section 5-319 K.)

- I. Parks, playgrounds, playing fields, tennis courts, ice-skating rinks and swimming pools;
- II. Churches, community meeting halls, private schools, day care centers, libraries, and civic activities;
- III. Private riding stables and equestrian centers with structures larger than allowed by right;
- IV. Cemeteries (subject to Section 5-319 J.);
- V. Bed and Breakfasts with more than five rooms to rent, and Hunting Lodges and Guest Ranches on parcels less than 150 acres and/or accommodating more than 20 overnight guests;
- VI. Construction/Contractor Office and Staging Area;
- VII. Animal breeding and boarding kennels on less than 150 acres, and veterinary hospitals;
- VIII. Manufacturing and processing businesses up to 2,000 sq. ft;
- IX. Light industrial, research and development facilities up to 2,000 sq. ft;
- X. Feed and seed stores up to 2,000 sq. ft.;
- XI. Repair service shops up to 2,000 sq. ft.;
- XII. Art studios, galleries and craft shops up to 2,000 sq. ft.;

- XIII. Business and professional offices up to 1,000 sq. ft.;
- XIV. Trade businesses, such as plumbing, heating, electrical and carpentry up to 2,000 sq. ft.;
- XV. Auto repair with no more than 5 cars stored or parked overnight outside the building;
- XVI. Printing and publishing offices up to 2,000 sq. ft.;
- XVII. Conditional uses on federal lands - mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations;
- XVIII. Fruit and vegetable stands on parcels less than 150 acres;
- XIV. Lumber mills; and
- XX. Secondary Dwelling Units more than 300 feet from the primary residence.

5-319 F. Uses Allowed Subject to One-Step Board of County Commissioner Review

- I. Open Land Protection Subdivision Exemption for five or more lots (see Section 5-1207);
- II. Logging Operations resulting in hauling of more than 300,000 board feet in any 12-month period beginning with commencement of hauling, in accordance with all provisions of Section 5-319 K. and 5-17; and
- III. Subdivision Exemption for Wright's Mesa (for parcels 40 acres or larger) to create a new parcel between 2 and 5 acres (see Section 5-1210).

5-319 G. Uses Allowed Subject to Two-Step Planning Commission and Board of Commissioners Special Use Permit Review (see Section 5-319 K.)

- I. Manufacturing and processing businesses greater than 2,000 sq. ft.;
- II. Light industrial, research and development facilities greater than 2,000 sq. ft.;
- III. Repair service shops greater than 2,000 sq. ft.;

- IV. Business and professional offices greater than 1,000 sq. ft.;
- V. Trade businesses, such as plumbing, heating, electrical and carpentry greater than 2,000 sq. ft.;
- VI. Printing and publishing offices greater than 2,000 sq. ft.;
- VII. Commencement and/or expansion of non-chemical mining and mineral processing operations, subject to Section 5-16;
- VIII. Golf Courses, subject to an additional conceptual joint work session with the Planning Commission and Board of Commissioners to discuss how and if the applicant can meet the purpose and standards of the golf course regulations (subject to compliance with Standards in Section 5-1004).
- IX. Public utility structures, including dams and reservoirs.
- X. Major Oil and Gas Facilities, including compressor stations, gas treatment facilities and pipelines (refer to Section 5-26).

5-319 H. Area and Bulk Requirements

I. Minimum Parcel Size

The minimum Parcel size for each principal use is 35 acres, except for single-family dwellings approved pursuant to the standards for Open Lands Protection Subdivision Exemption (Section 5-1207) and except for Parcels approved pursuant to the standards for Essential Community Facilities Subdivision Exemption (Section 5-1204), pursuant to any required Special Use review, and which satisfy the following criteria (to be determined through the review under Section 5-1204):

- a. Such Parcel shall have legal Access to a dedicated public right of way that safely, and adequately serves the intended Use for such Parcel;
- b. Such Parcel shall comply with the minimum Setbacks for the WM Zone District and shall provide an additional Setback buffer, if necessary, considering the function, nature and extent of the Use and the dimensions of any Structures; and
- c. Such Parcel safely accommodates the intended Use and does not endanger the public health, safety and welfare as demonstrated by a detailed survey, accurate Site

Development plan for the planned Structures, Buildings and/or infrastructure to be erected thereon.

- d. Any legally created Parcel less than 35 acres in the WM Zone District may qualify for a Building Permit for one single-family dwelling unit, provided the Parcel meets the criteria set forth in Section 5-1908.

II. Minimum Setbacks

- a. Front Yard - 30 feet
- b. Side Yard - 20 feet
- c. Rear Yard - 20 feet

III. Maximum Height of Buildings - 35 feet

5-319 I. Minimum Off-street Parking

Off-street parking shall be provided for each approved use as required in Section 5-702.

5-319 J. Cemetery Standards

In addition to complying with the standards for special uses in Sections 5-319 K. and 5-10, cemeteries shall comply with the standards in this section.

- I. Such uses shall serve an obvious public need;
- II. Sufficient distance shall separate such uses from incompatible uses on adjacent properties; and
- III. Satisfactory proof shall be obtained that such areas will be properly maintained.

5-319 K. Review Standards for all WM Zone District Special Uses

All special uses shall:

- I. Be consistent with the County Master Plan, the County Land Use Policies in Article 2 and the purpose of the WM Zone District;
- II. Be consistent with and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses, and/or shall enhance the mixture of complimentary uses and activities in the immediate vicinity of the

parcel proposed for development;

- III. Be designed, located and proposed to be operated so that the public health, safety and welfare will be protected;
- IV. Be located, designed and operated to minimize adverse effects, including impacts on scenic quality, pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibration and odor on surrounding properties. (The allowed number of employees or occupants may be limited depending upon potential impacts on surrounding properties);
- V. Provide adequate public facilities and services to serve the special use, including but not limited to roads, adequate water supply in terms of both quality and quantity, sewer, solid waste and fire protection;
- VI. Not substantially adversely affect agriculture or ranching operations, residences or scenic quality of land surrounding State or County roads (including through addition of traffic);
- VII. Comply with setback and height restrictions; however, the County may require greater setbacks to mitigate impacts on neighbors or scenic quality;
- VIII. Be required to shield exterior lighting to prevent direct visibility of light bulbs from off-site. All exterior lighting shall be directed toward the ground or the surface of a building. High-intensity sodium-vapor and similar lighting shall be prohibited;
- XI. Be located to preserve scenic views and blend in with and utilize the natural topography;
- X. Use native or similar horticultural materials for revegetation and reforestation, and provide guarantees that any needed revegetation or reforestation will be completed during the first planting season after construction;
- XI. Only include roads, utilities and associated structures that bear logical relationships to existing topography and minimize cuts and fills;
- XII. Comply with the applicable sign standards in Land Use Code Section 5-704; and
- XIII. Be consistent with the historic rural and agricultural character of

Wright's Mesa. The following standards, along with input from neighbors, shall be considered by the County in determining consistency:

Siting of Buildings

- Locate buildings away from open meadows, visible ridges, and wildlife habitat areas.
- Cluster structures with surrounding open space ("ranch compound" concept).
- Locate buildings to maximize solar access.

Roads/Driveways

- Minimize cuts and fills, which should not exceed 2:1 slopes.
- Stabilize cut and fill slopes with erosion-resistant vegetation or material contoured to blend with natural, undisturbed terrain.
- Maintain the natural drainage on the property to the greatest extent possible.
- Encourage shared driveways between buildings.
- Avoid cutting through open meadows.
- Surface driveways with gravel, or employ dust-control.

Parking

- Locate parking areas behind or to the side of buildings.
- Consider parking-surface alternatives, such as gravel and reinforced sod.
- Separate parking areas from buildings with pedestrian ways and planting zones.
- Landscape at least 15 percent of parking areas, and provide one shade tree for each 300 square feet of parking.

Building Materials

- Utilize predominantly natural building materials, such as wood siding and native stone. (Corrugated metal buildings are discouraged, and at minimum should be sited to minimize visibility from roads.)
- Encourage natural earth tones and muted colors to blend with surroundings.
- Paint or anodize exposed metal flashing or trim to reduce reflectivity.
- Encourage composition shingle, metal, slate or other earth toned non-reflective roofing.

Architectural Elements

- Encourage front and side porches.
- Encourage roof slopes that change pitch and peaked roofs with gentle slopes.
- Encourage horizontal building forms (this does not preclude two stories).
- Encourage pitched roofs, and discourage flat, mansard, curved and domed roofs.
- Match roof colors with the darkest colors in the adjacent landscape.
- Encourage reuse, renovation, and/or modification of existing buildings.

Accessory Structures

- Screen mechanical appurtenances, service and storage areas and trash receptacles from public view.
- Utilize the same or similar building materials (forms, colors and textures) for main and accessory structures.
- Mitigate visibility of accessory structures with fences, walls and/or landscaping

XIV. Review of Approved Special Uses

- I. All approved Special Uses subject to either one-step Planning Commission or Board of County Commissioner review or two-step Special Permit Review shall commence within three (3) years of the date of approval. If the owner has not obtained a Development Permit for the approved Special Use and/or commenced the approved use or activity, in accordance with the terms and conditions of the approval, within this three (3) year time period, the Special Use shall be subject to review at a duly noticed Public Hearing by the entity that approved the Special Use. The purpose of this review is to determine if there has been a change in circumstances since the Special Use Permit was granted and to determine if the Special Use meets or complies with the review standards for Special Uses set forth in Land Use Code Section 5-319 K. Review Standards for all WM Zone District Special Uses

Upon or prior to the expiration of the three (3) year period, the owner/applicant may provide a written statement withdrawing the Special Use application and requesting the Special Use approval be terminated. If upon expiration of the three (3) year period the owner/applicant does not provide a written statement withdrawing the application the matter shall be noticed and scheduled for Public Hearing by the County. The applicant is encouraged to provide a written statement, prior to the Public Hearing, indicating why the approved Special Use has not been permitted and/or commenced, identifying any changes that may have occurred in the surrounding land uses and explaining how the proposed Special Use meets the review standards in Land Use Code Section 5-319 K.

Review of an approved Special Use shall be conducted in accordance with the applicable provisions of Article 3 Procedures for one-step reviews and shall include posting and sending written notice of the Public Hearing for review of the Special Use to adjacent property owners. Development Permits for an approved Special Use shall not be issued following the expiration of the three (3) year period, prior to the required Public Hearing.

The Planning Commission and/or Board of County Commissioners in reviewing the Special Use Permit, at a duly noticed Public Hearing, may extend the Special Use Permit approval, extend the approval subject to modifications or additional conditions, or they may rescind and terminate the approval if a finding is made that the Special Use no longer meets the review standards for Special Uses pursuant to Section 5-319 K. Review Standards for all WM Zone District Special Uses.

- II. If any approved Special Use is discontinued or abandoned for

twelve (12) consecutive months, then such Special Use shall be subject to review initiated by the County. The procedures and standards for review of discontinued or abandoned Special Uses are the same as those for Review and Approval of Special Uses set forth in Land Use Code Section 5-319 K. If a Special Use is discontinued or abandoned for twelve (12) consecutive months, and the Special Use is re-established or resumed by the owner, the use shall be subject to review in accordance with the provisions of this section and subject to review by either the Planning Commission and/or Board of County Commissioners, at a duly noticed Public Hearing, where the permitting entity may rescind or terminate, recognize and extend the original approval, or extend subject to additional conditions or modifications. The procedures and standards for review of discontinued Special Uses are the same as those for Review of Approved Special Uses set forth in 5-319 K. Review Standards for all WM Zone District Special Uses.

WRIGHT'S MESA ZONE DISTRICTS

The current Land Use Code Section 5-319 Wright's Mesa Zone District (WM) and related texts will remain in full force and effect as to parcels of real property included within the Wright's Mesa Master Plan Area until and unless the Board of County Commissioners approves the rezoning of any such specific parcel of real property to one of the new Wright's Mesa Zone District classifications as follows:

NEW LANGUAGE adopted March 2010

Land Use Code Section 5-201 General

R. Wright's Mesa (WM) (Section 5-319 I, II, III, IV)

- I. Wright's Mesa Town Residential (WMTR)**
- II. Wright's Mesa Light Industrial (WMLI)**
- III. Wright's Mesa Rural Agriculture (WMRA)**
- VI. Wright's Mesa Rural Residential (WMRR)**

The following pages WM-1 through WM 57 contain the new language adopted March 2010.

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5-319 Wright's Mesa Zone Districts
5-319 A. General Provisions

I. General Purpose and Intent

This Section is generally intended to:

- a. Implement the Wright's Mesa Master Plan;
- b. Allow for and encourage town-level residential and light industrial uses within the Norwood Master Plan Boundary; and
- c. Allow for and encourage on-going and future agricultural operations and compatible uses outside the Norwood Master Plan Boundary, while protecting the character and quality of Wright's Mesa.

II. Applicability

This Section 5-319 applies to all land located within the boundaries of the Wright's Mesa Master Plan. The use of land, buildings, or structures, and all development as defined by this Code, shall conform to the regulations applicable to the zone district in which the lot or site is located, unless a variance, adjustment, or exemption is provided by or pursuant to the terms of this Section. This Section 5-319 does not apply to pre-existing, non-conforming uses, which shall instead be governed by Section 5-19 of this Land Use Code.

5-319 B. Establishment of Wright's Mesa Zone Districts
Table 1 lists the Wright's Mesa Zone Districts.

TABLE 5-319-1: WRIGHT'S MESA ZONE DISTRICTS AND ABBREVIATIONS	
ABBREVIATION	ZONE DISTRICT
WMRA	Wright's Mesa Rural Agricultural
WMRR	Wright's Mesa Rural Residential
WMLI	Wright's Mesa Light Industrial
WMTR	Wright's Mesa Town Residential

5-319 C. District Boundaries

Boundaries of the Wright's Mesa Zone Districts are to be shown on the adopted County Zoning Map as specific properties are rezoned to these new Districts. The Districts are within the Wright's Mesa Master Plan boundary, which is shown on the Following Figures WM1 (Wright's Mesa Master Plan Boundary and Future Land Use Plan) and WM2 (Wright's Mesa Future Land Use – Norwood Master Plan Area).

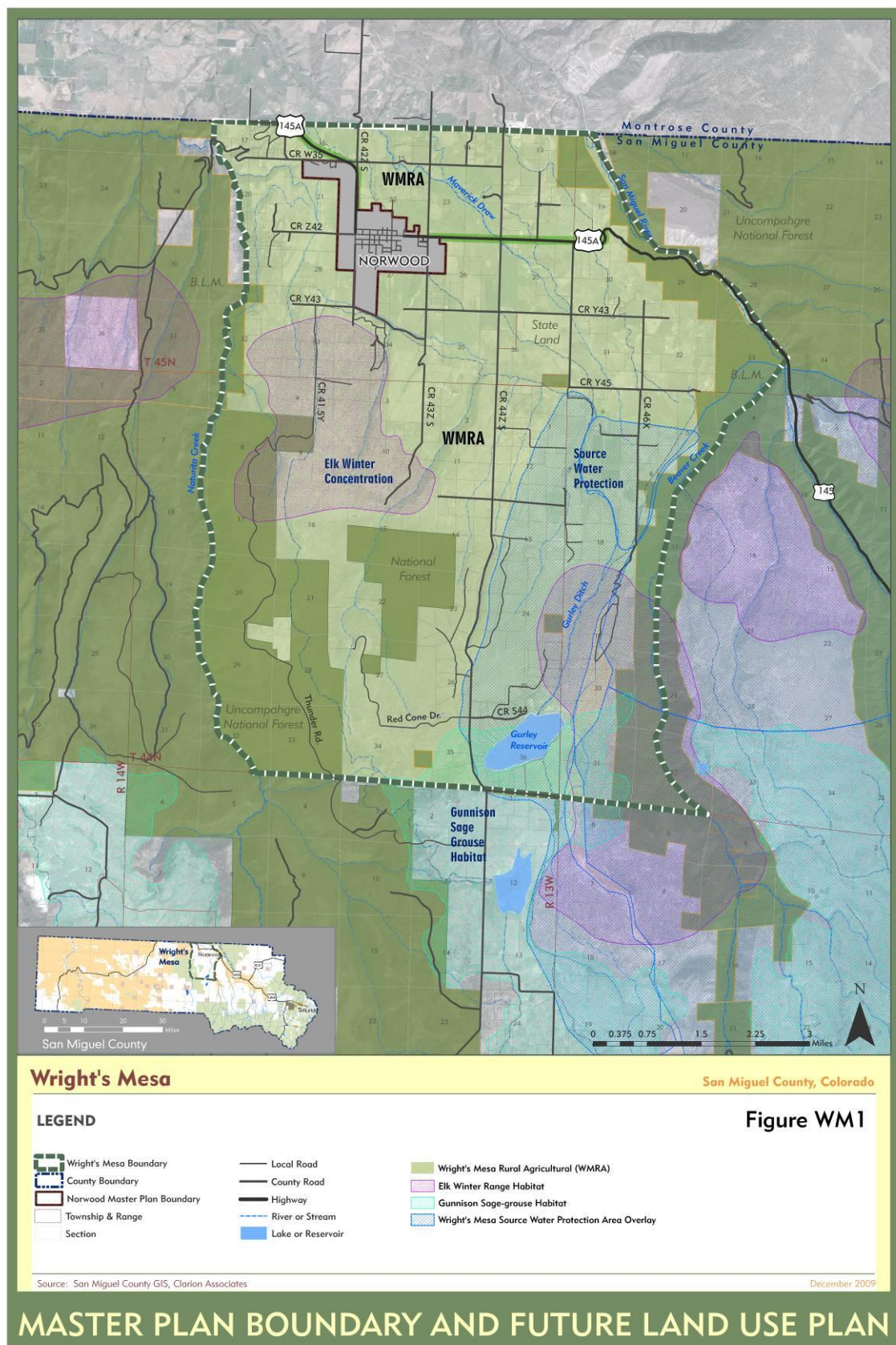


Figure WM-1

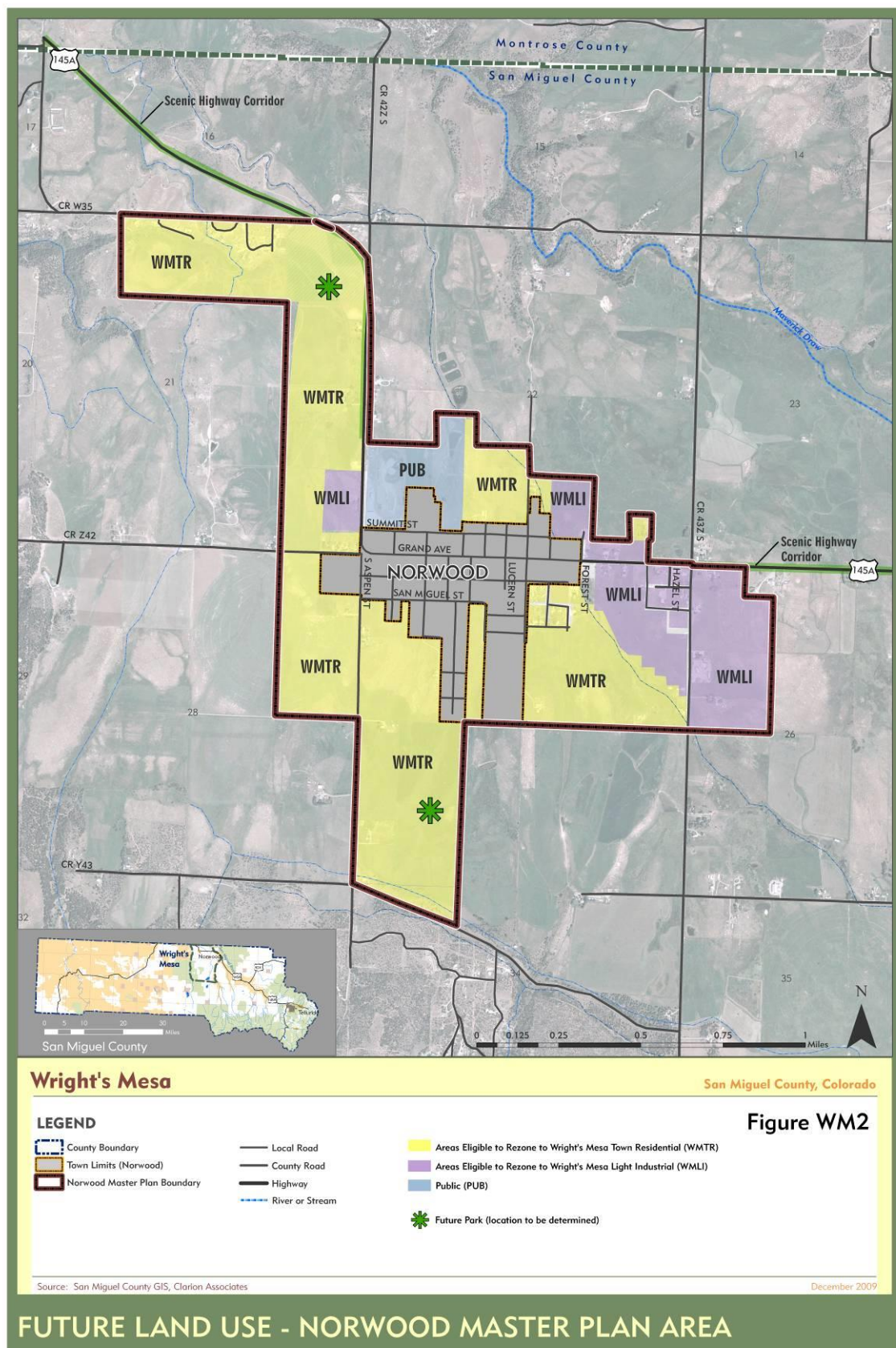


Figure WM2

District Purposes**I. Wright's Mesa Rural Agricultural (WMRA)**

The Wright's Mesa Rural Agricultural district is intended to implement the Wright's Mesa Master Plan by protecting the rural and agricultural character of Wright's Mesa and allow for and encourage ongoing and future agricultural operations outside of the Norwood Master Plan Boundary, while encouraging compatible, diverse economic opportunities that enhance the economic viability of agricultural lands and fit within the rural landscape. The district discourages the type of large-lot sprawl development patterns that are typically created through 35-acre development, by offering alternatives and incentives to cluster buildings, retain open lands, and keep large parcels whole. The PUD process is not applicable in this district. This Section 5-319 includes criteria to guide the siting of and performance of general industrial services and heavy manufacturing within the WMRA district. Industry that would have significant adverse impacts to neighbors or that would detract from the rural character may not be appropriate on Wright's Mesa. These types of uses may be more appropriately considered in the West End (WE) zone district (defined in Section 5-320) in proximity to existing resource extraction, mining and mineral processing, and major oil and gas facilities.

II. Wright's Mesa Rural Residential (WMRR)

Existing rural subdivisions located on Wright's Mesa outside of the Norwood Master Plan Boundary that are in the Residential (R), Mobile Home (MH), and Planned Unit Development (PUD) zone districts, or parcels created through other means, are eligible to rezone to Wright's Mesa Rural Residential (WMRR). The WMRR zone district is intended to allow existing lots that are smaller than 35 acres to comply with reasonable area and bulk requirements and make them conforming. This district is not intended to expand rural residential subdivisions into other parts of Wright's Mesa. The PUD process is not applicable in this district.

III. Wright's Mesa Light Industrial (WMLI)

The Wright's Mesa Light Industrial (WMLI) district is established to implement the "Town Light Industrial" land use classification in the Wright's Mesa Master Plan. The district is intended to apply to county parcels that have been identified as appropriate for light industrial development currently outside town limits but within the Town of Norwood Master Plan Boundary. The district is intended to allow for the development of small-scale and relatively low-impact manufacturing and processing uses, offices, business services, live-work units, civic uses, and other uses compatible with the small-town character of Norwood, in locations where uses and activities can be efficiently served by the Town of Norwood, Norwood Sanitation District, and Norwood Water Commission. This district is near the downtown commercial area and at the edge of town residential areas, where town-level residential and

commercial should occur. Therefore, commercial and residential uses in this district require greater review process than light industrial uses. Developers seeking higher density or variation in permitted uses or area and bulk requirements shall use the Planned Unit Development (PUD) process and must demonstrate legal and physically adequate water and sewer services. The district's location allows for the expansion of Norwood in a compact and orderly fashion. It is also intended to ensure general consistency with the Town of Norwood's Major Streets and Future Land Use Plan. Prior to rezoning parcels to the WMLI district, the county will encourage landowners to seek annexation into the Town or enter into a pre-annexation agreement with the Town of Norwood.

IV. Wright's Mesa Town Residential (WMTI)

The Wright's Mesa Town Residential (WMTR) district is established to implement the "Town Residential" land use classification in the Wright's Mesa Master Plan. The district is intended to apply to county parcels that have been identified as appropriate for town-level residential development within the Town of Norwood Master Plan Boundary. "Town-level residential development" is consistent with Town of Norwood residential development densities and all other standards, including paving standards for streets and sidewalks. Developers seeking higher density or variation in permitted uses or area and bulk requirements shall use the Planned Unit Development (PUD) process and must demonstrate legal and physically adequate water and sewer services. The WMTR zone district is determined to be necessary and suitable for future town uses and can be efficiently served by the Town of Norwood, Norwood Sanitation District, and Norwood Water Commission. It is also consistent with the Town of Norwood's Major Streets and Future Land Use Plan. Prior to rezoning parcels to the WMTR district, the county will encourage landowners to seek annexation into the Town or enter into a pre-annexation agreement with the Town of Norwood.

5-319 E.

Allowed Uses

Table 5-319-3 lists the uses allowed within the four zone districts. Development or use of property for any other use not specifically allowed in Table 5-319-3 and authorized under the applicable procedure is prohibited. All the use categories and use types listed in the Table of Allowed Uses are defined in Section 5-319 K.

I. Explanation of Table Abbreviations

Table 5-319-2 lists the review procedures and abbreviations used in the Table of Allowed Uses (Table 5-319-3).

TABLE 5-319-2: PROCEDURES AND ABBREVIATIONS	
ABBREVIATION	EXPLANATION
P	“P” indicates that the use is permitted by right, subject to compliance with any additional regulations set forth in the final column of the table. Notwithstanding the designations in Table 5-319-3, any use proposing access onto a county road or state highway is subject to issuance of a development permit.
P-D	“P-D” indicates that the use is permitted by right, subject to compliance with any additional regulations set forth in the final column of the table, and subject to issuance of a development permit.
S-1	“S-1” indicates that the use is allowed subject to approval of a Special Use Permit, following the one-step Board of County Commissioner review and decision procedure set forth in Section 5-319 F. II. a.
S-2	“S-2” indicates that the use is allowed subject to approval of a Special Use Permit, following the two-step Planning Commission/Board of County Commissioner review and decision procedure set forth in Section 3-6.
A	“A” indicates that the use is allowed as accessory to a principal use of the property, subject to compliance with any additional regulations set forth in the final column of the table.
A-D	“A-D” indicates that the use is allowed as accessory to a principal use of the property, subject to issuance of a development permit and subject to compliance with any additional regulations set forth in the final column of the table.
T-D	“T-D” indicates that the use is allowed as a temporary use, subject to issuance of a development permit and subject to compliance with any additional regulations set forth in the final column of the table.

II. Table Organization

In Table 5-319-3, land uses and activities are classified into general “use categories” and specific “use types” based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts. Both use categories and use types are defined in Section 5-319 K.

III. Use-specific Standards

Regardless of whether a use is allowed by right or permitted as a special use, additional standards may be applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the table.

IV. Multiple Principal Uses Allowed

a. WMRA District

In the WMRA district, each parcel is allowed one single-family dwelling and any number of home occupations, agricultural uses, and/or agricultural support uses provided such uses meet all standards of this code. In addition, one other principal use may be allowed, provided that such use complies with all applicable standards of this code.

b. WMRR District

In the WMRR district, each parcel is allowed one single-family dwelling and any number of home occupations, and agricultural uses provided such uses meet all standards of this code.

c. WMTR and WMLI Districts

Multiple principal uses may be allowed on a single parcel in the WMTR and WMLI districts, provided that each such use complies with all applicable standards of this code.

V. Classification of New and Unlisted Uses

The county recognizes that new types of land use will develop and forms of land use not anticipated in this Land Use Code may seek to locate in the Wright's Mesa zone districts. When application is made for a use category or use type that is not specifically listed in Table 5-319-3, the Planning Director shall make a determination as to the appropriate classification of any new or unlisted form of land use in the following manner:

a. The Planning Director shall provide an interpretation as to the use category, if any, into which such use should be placed. In making such interpretation, the Planning Director shall consider the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage, and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer. The Planning Director shall make a finding that the newer, unlisted use has similar or lesser impacts than the similar listed use; if not the use shall not be allowed.

b. Standards for new and unlisted uses may be interpreted as those of a

similar use. A similar review procedure shall apply for the new and unlisted use.

- c. Appeal of the Planning Director's decision shall be made to the Board of County Commissioners under Sections 1-1903 A.

VI. Table of Allowed Uses

Allowed uses are identified in Table 5-319-3. All uses shall be consistent with the Wright's Mesa Master Plan. All uses shall comply with all applicable provisions of county, state and federal regulations and permitting.

TABLE 5-319-3: TABLE OF ALLOWED USES						
USE CATEGORY	USE TYPE	WMRA	WMRR	WMLI	WMTR	USE-SPECIFIC STANDARDS General standards in 5-319 I. apply to all uses. Additional use-specific standards in 5-319 H. may apply as noted.
AGRICULTURAL USES						
Agriculture	Agriculture (use of land for the production of food, including crops, pasture, raising of livestock, greenhouses)	P				
Agricultural Support Uses	Agricultural Processing Facility related to on-site production	P-D				Section 5-319 H.I.a.
	Agricultural research facility	P-D				
	Farm and Ranch-Based Tourism	P-D				Section 5-319 H.I.b.
	Farm Machinery Repair and Sales	P-D				Section 5-319 H.I.c.
	Feedlot, Commercial	S-2				Section 5-319 H.I.d.
	Lumber Mill	S-1				Section 5-319 H.I.e.
	Small-Scale Business	P-D				Section 5-319 H.I.f.
	Stable, Commercial	S-1				Section 5-319 H.I.g.
	Wayside Stand	P-D				Section 5-319 H.I.h.
Animal-Related Services	Kennel	P-D		P-D		Section 5-319 H.I.i.
	Veterinary Clinic/Hospital	S-1		P-D		Section 5-319 H.I.i.
RESIDENTIAL USES						
Household Living	Dwelling, Single-family (manufactured and mobile homes on permanent foundations)	P-D	P-D	P-D	P-D	
	Dwelling, Cottage Housing				S-2	Section 5-319 H.II.a.
	Dwelling, Duplex				P-D	
	Dwelling, Live/work			P-D		Section 5-319 H.II.b.
	Dwelling, Multi-family				S-2	Section 5-319 H.II.c.
	Secondary Dwelling u\Unit	P-D				Section 5-319 H.II.d.
	Accessory shed or outbuilding (200 sf or less in residential district)	P	P	P	P	
Group Living	Boarding or Rooming House				S-1	Section 5-319 H.II.e.
	Co-housing				S-1	Section 5-319 H.II.f.
	Convent or Monastery	S-1				
	Nursing Home				S-1	

TABLE 5-319-3: TABLE OF ALLOWED USES						
USE CATEGORY	USE TYPE	WMRA	WMRR	WMLI	WMTR	USE-SPECIFIC STANDARDS General standards in 5-319 I. apply to all uses. Additional use-specific standards in 5-319 H. may apply as noted.
PUBLIC AND INSTITUTIONAL USES						
Community and Cultural Facilities	Cemetery	S-1		S-1	S-1	
	Community/Recreation Center	S-1		S-1	S-1	Section 5-319 H.III.a.
	Government Administration and Civic Building	S-2		P-D	S-1	Section 5-319 H.III.b.
	Social, Fraternal Lodge			P-D		
Day Care Facilities	Day Care Center	S-2		P-D	S-1	
	Day Care Home	P-D	P-D	P-D	P-D	
Educational Facilities	School (elementary or secondary)	S-2		P-D	P-D	Section 5-319 H.III.c.
	Trade or Vocational School	S-1		S-1		Section 5-319 H.III.c.
Health Care Facilities	Clinic			S-1		
	Hospital			S-2		
Park and Open Space	Athletic Fields and Courts	S-1		P-D	S-1	
	Community Garden	P	P-D	P	P	
	Open Space	P		P	P	
	Park	S-1		P	P	
Public Safety Facility	Fire and/or Rescue Station or Substation	S-2		P-D	S-1	Section 5-319 H.III.d.
	Police or Sheriff Station or Substation	S-2		P-D	S-1	Section 5-319 H.III.d.
Religious Assembly	All uses	S-1		P-D	P-D	Section 5-319 H.III.e.
Telecommunications Facility	Tower/Antenna	S-1		P-D		Section 5-27
Transportation Facility	Bus or Intercept Lot	S-1		P-D		
Utility/Energy Production	Public Utility Service Center and Storage Yard	S-1		P-D		
	Renewable energy facility (solar, wind)	S-2		S-1		Section 5-319 H.III.g.
	Utility, Major	S-2		S-2		Section 5-709
	Utility, Minor	S-1		S-1		Section 5-709

TABLE 5-319-3: TABLE OF ALLOWED USES						
USE CATEGORY	USE TYPE	WMRA	WMRR	WMLI	WMTR	USE-SPECIFIC STANDARDS General standards in 5-319 I. apply to all uses. Additional use-specific standards in 5-319 H. may apply as noted.
COMMERCIAL USES						
Conference and Training Centers	Conference and Training Center	S-1		S-1		Section 5-319 H.IV.a.
	Rural Resort or Retreat	S-1				Section 5-319 H.IV.a.
Food and Beverage Service	Restaurant or Bakery	S-1		P-D		Section 5-319 H.IV.b.
Office and Business Professional	Bank/Financial Institution			S-1		
	Office	S-1		P-D		Section 5-319 H.IV.c.
	Personal Services			S-1		
Recreation and Entertainment (Indoor)	Movie Theater			S-2		
Recreation and Entertainment (Outdoor)	General Outdoor Recreation, Commercial			S-2		
	Golf Course or Driving Range	S-2		S-2		Section 5-1004
	Rural Recreational Establishment (outdoor)	S-1				Section 5-319 H.IV.j.
Retail Sales	Greenhouse or nursery w/retail	S-1		P-D		
	Grocery store (supermarket)			S-2		
	Retail, general (indoor)			S-2		
	Retail, general (outdoor)			S-2		
Vehicles and Equipment	Carwash			S-2		
	Gasoline station			S-2		
	Vehicle Service and Repair and Parts Sales (indoor)			S-1		Section 5-319 H.IV.d.
Visitor Accommodations	Bed and Breakfast	P-D		S-1	P-D	Section 5-319 H.IV.e.
	Bed and Breakfast	A			A	Section 5-319 H.IV.e. Rental of 3 or fewer rooms as an Accessory Use to a SFR
	RV Park, Travel Trailer Park, Campground			S-2		Section 5-319 H.IV.f.
	Semi-Primitive Campground (up to 20 guests with greater than 50 acres)	P-D				Section 5-319 H.IV.g.
	Semi-Primitive Campground (21 or more guests and/or less than 150 acres)	S-1				Section 5-319 H.IV.g.
	Hotel or motel			S-2		Section 5-319 H.IV.h.
	Lodge (Hunting or Guest Ranch - up to 20 guests)	P-D				Section 5-319 H.IV.i.
	Lodge (Hunting or Guest Ranch - 21 or more guests)	S-1				Section 5-319 H.IV.i.

TABLE 5-319-3: TABLE OF ALLOWED USES						
USE CATEGORY	USE TYPE	WMRA	WMRR	WMLI	WMTR	USE-SPECIFIC STANDARDS General standards in 5-319 I. apply to all uses. Additional use-specific standards in 5-319 H. may apply as noted.
INDUSTRIAL USES						
						Overlay restrictions may apply to Industrial Uses. See Section 5-319 J.
General Industrial Service	Minor	S-1		S-1		
	Major	S-2				Section 5-319 H.V.c.
Resource Extraction	Logging	S-1				Section 5-319 H.V.a. (note: certain amounts exempt development permit) and 5-10 and 5-17
	Mining and/or Mineral Processing	S-2				Section 5-16 and 5-17
	Oil and Gas Facility, Major	S-2				Section 5-26
	Oil and Gas Facility, Minor	P-D				Section 5-26
	Manufacturing, heavy	S-2				Section 5-319 H.V.c.
Manufacturing and Production	Manufacturing, light			S-1		Section 5-319 H.V.b.
	Shop-Craft Business or Industry	S-1		P-D		
Warehouse and Storage	Construction staging Area/Stockpiling of dirt	S-2		S-2		Section 5-319 H.V.d.
	Mini-storage			S-1		Section 5-319 H.V.e.
	Recreational Vehicle (RV) Storage and Service	S-2		S-2		Section 5-319 H.V.f.
	Storage or Hauling Company			S-1		
	Warehouse			P-D		
Waste and Salvage	Material Recovery Facility	S-2				Section 5-319 H.V.g.
	Salvage, Junk Yard	S-2				Section 5-319 H.V.g.
ACCESSORY USES						
	Accessory Use/Structure	A-D	A-D	A-D	A-D	
	Dwelling, Alley House				A-D	Section 5-319 H.VI.a
	Caretaker or Guard Residence				A-D	
	Greenhouse (accessory to a Single-family Dwelling)	A*	A-D	A-D	A-D	Section 5-319 F.I. *Building Permit may be required
	Heliport			S-1		Section 5-319 H.VI.b.
	Home occupation (accessory to Single-family Dwelling)	A	A	A	A	Article 6 Definition Section 5-319 H.VI.c.
	Outdoor Storage			A-D		Section 5-319 H.V.d.
	Solar Energy Collector	A	A	A	A	
	Stable (Accessory Use)	A-D				Section 5-319 H.VI.e.
	Wind-powered Energy Generator	A-D	A-D	A-D	A-D	
TEMPORARY USES						
	Asphalt/Concrete Batch Plant, Temporary			T-D		Section 5-319 H.VII.a.
	Building Material, and / Construction Office, Temporary			T-D		
	Construction Staging Area/Stockpiling of dirt, Temporary	T-D		T-D		Section 5-319 H.V.d. and Section 5-319 H.VII.b.
	Field Office, Temporary	T-D		T-D	T-D	
	Sales Trailer, Temporary	T-D		T-D	T-D	Section 5-319 H.VII.c.

5-319 F. Procedures that Apply

This section sets forth procedures that apply within the Wright's Mesa zone districts. This Section supplements the general County review procedures found in Article 3 of this Land Use Code. In case of conflict between this Section and Article 3, the procedures in this Section shall control.

I. Uses Subject to Issuance of a Development Permit

Uses subject to issuance of a Development Permit shall comply with applicable regulations of this Land Use Code, including use-specific standards in Section 5-319 H. and site development standards in Section 5-319 I. Development permits shall be processed in accordance with Section 3-402.

II. Special Uses

Special Uses are allowed only if the applicant applies for and is issued a Special Use Permit in accordance with the procedures below and in Article 3. Special Uses are subject to all other applicable regulations of this Land Use Code, including Section 5-10, the submittal requirements of Section 5-1002 E., the use-specific standards in Section 5-319 H. and site development standards in Section 5-319 I. Special Uses require either a One- or Two-step review procedure, as set forth in this Section and Section 3-6 of this Land Use Code.

a. One-Step Review (Wright's Mesa)

Uses that are subject to a One-Step Special Use Permit review and decision shall comply with procedures in this Section.

i. One-Step Review Process

The One-Step Special Use Permit review procedure shall be in accordance with the general review process described in Section 3-2 and the One-Step review procedure set forth in Section 3-5. The Board of County Commissioners shall be responsible for the meeting and/or public hearing and decision for One-step reviews on Wright's Mesa.

ii. Public Notice Abbreviated Process

Certain uses in the WMRA zone district subject to the One-Step review procedure are eligible to shorten the review process as follows:

- (a) The following uses in the WMRA zone district are eligible for the abbreviated process: commercial stable; convent or monastery; cemetery; school (elementary or secondary); minor utility; rural resort or retreat; office; rural recreational establishment (outdoor); greenhouse or nursery with retail; lodge (hunting or guest ranch); and shop-craft, business or industry.
- (b) An applicant proposing one of the above-listed uses who wishes to pursue the abbreviated process shall provide the county planning department with a draft copy of the notice to

be sent to property owners. The notice shall include a description of the proposed project, including a site plan and list of proposed uses and activities, and a description of how the use will meet applicable standards of this code. The applicant shall also provide the county with a list of intended recipients of the written notice.

- (c) Following approval of the draft notice and mailing list, the applicant shall send by postal mail or electronic mail a written copy of the notice, as approved by the county, to all contiguous property owners and landowners within one-half mile of the subject property line, plus all property owners along any private road adjoining the subject property. The notification also shall include a consent form and a stamped envelope addressed to the county planning department.
- (d) In addition to sending written notice, the landowner shall post notice of the proposed project on-site in accordance with county noticing requirements in Section 3-9 of this Land Use Code.
- (e) If all recipients of the written notice sign and return the consent form within 30 days of the mailing of notification, indicating acceptance of the proposed project, the county shall review the use following the administrative review process set forth in Section 3-402 of this Land Use Code.

b. Two-Step Review

The Two-Step Special Use Permit review procedures shall be in accordance with the general review process described in Section 3-2 and Section 3-6 of this Land Use Code with (1) Planning Commission Review and Recommendation, and (2) Board of County Commissioner Review and Decision.

c. Joint Review of Rezoning and Special Use Permit

Following a pre-application meeting with county staff, an applicant may submit a combined application for rezoning to the WMTR or WMLI district and a special use permit to establish a use in one of those districts. In such cases, the applications shall be processed concurrently.

d. Commencement and Expiration

All Special Uses shall comply with the commencement and expiration provisions in Section 5-1002 F. Review of Approved Special Uses.

III. Accessory and Temporary Use Review

Unless otherwise stated in this Code, accessory uses are subject to all other applicable regulations of this Land Use Code.

Temporary uses are subject to all other applicable regulations of this Land Use Code.

5-319 G. Area and Bulk Requirements

All primary and accessory structures are subject to the dimensional standards set forth in Table 5-319-4 below. These general standards may be further limited or modified by other applicable sections of this Land Use Code.

I. Dimensional Requirements

The table sets forth dimensional requirements for allowed uses and for accessory uses. Uses may be allowed on smaller pre-existing or non-conforming lots or parcels created through an OLP or other subdivision exemption provided that the proposed use meets other applicable standards.

II. Planned Unit Development (PUD) Variations in WMTR and WMLI Zone Districts

PUD is a subdivision procedure permitting variation of dimensional, permitted uses, and parking standards to allow flexibility with dimensional requirements. Where area and bulk requirements may be varied for the WMTR and WMLI zone districts, as allowed through a PUD, the table indicates the dimensional requirement allowed.

A PUD shall comply with all standards set forth in Section 5-14.

TABLE 5-319-4: AREA AND BULK REQUIREMENTS				
	WMRA	WMRR	WMLI	WMTR
MINIMUM LOT AREA				
Non-residential uses or group living	35 acres except for OLP and subdivision exemption	As previously platted	6,000 sf.	
Single-family or duplex—no duplex in WMRA	35 acres except for OLP and subdivision exemption	As previously platted	5,000 sf.	5,000 sf.
Multi-family or cottage housing				2,500 sf (allowed by PUD)
Alley House, accessory use				7,500 sf (for Single-family Dwelling and Alley House)
MAXIMUM LOT AREA				
Principal Use	n/a	n/a	n/a	10,000 sf
MINIMUM LOT WIDTH				
Non-residential uses of group living	50 ft	50 ft	50 ft	
Single-family	50 ft	50 ft	48 ft	48 ft
Multi-family				60 ft
Cottage housing				35 ft (allowed by PUD)
MINIMUM SETBACKS				
Front	30 ft	10 ft	15 ft	15 ft
Side	20 ft	10 ft	10 ft	10 ft. (no less than 5 ft for Cottage Housing allowed by PUD)
Rear	20 ft	10 ft	10 ft	Zero for Single-family; 10 ft for Multi-family and Alley Houses; 5 ft (no less than 5 ft for Cottage Housing allowed by PUD) when rear yard is adjacent to an alley
MAXIMUM HEIGHT OF BUILDINGS				
Primary Use	35 ft	35 ft	30 ft	25 ft
Accessory Use	35 ft	35 ft	30 ft	18 ft
MAXIMUM LOT COVERAGE				
All Uses	n/a	n/a	50%	25%
Cottage Housing				40% for Single-family and Cottage Housing (allowed through PUD)
Single-family with Alley House accessory				50% or 5,000 ft, whichever is less
Planned Unit Development			80%	80%
MINIMUM FLOOR AREA PER UNIT				
Non-residential uses	No Minimum	No Minimum	No Minimum	
Single-family	No Minimum	No Minimum	800 sf GFA	800 sf GFA
Duplex			500 sf GFA	500 sf GFA
Cottage				500 sf GFA (allowed by PUD)
Multi-family or Alley Houses				350 sf GFA (allowed by PUD)
OFF-STREET PARKING				
Shall be provided for each use as required in Section 5-702				

5-319 H. Use-Specific Standards

All uses are subject to the applicable use-specific standards set forth in the Section.

I. Agricultural: See Definition of Agriculture in Section 5-319 K.

II. Agricultural Support Uses

This Section addresses the use-specific standards applicable to agricultural uses.

a. Agricultural Processing Facility

An agricultural processing facility in the WMRA zone district shall comply with the following standards:

- i. Minimum Lot Area: The minimum lot area shall be five acres.
- ii. Structure Size: The structure shall not exceed 2,000 square feet.
- iii. Larger structures may be permitted by special use review.
- iv. The use shall comply with all applicable state and federal standards.

b. Farm and Ranch-Based Tourism

A farm and ranch-based tourism use in the WMRA zone district shall comply with the following standards:

- i. Minimum Lot Area: The minimum lot area shall be five acres.
- ii. Maximum Structure Size: Structures shall not exceed 2,000 square feet.
- iii. Owner: The use shall be operated or maintained by the owner, or occupant of the land upon which the activity is being conducted.
- iv. Number of Visitors: Up to 200 visitors per day may be allowed.
- v. Parking: Parking shall be screened from a county road or state highway to the extent possible, and use an all-weather surface, such as gravel, to control erosion and dust.

c. Farm Machinery Repair and Sales

A farm and machinery repair and sales use in the WMRA zone district shall comply with the following standards:

- i. Storage of Equipment: To the extent possible equipment and storage of materials for repair and sales shall be screened and located to the side or rear of buildings. The storage yard shall not exceed 20,000 square feet.
- ii. Setbacks from Residential: Structures for repair and equipment storage shall be a minimum of 100 feet from a lot line abutting an existing dwelling or property zoned for residential use.
- iii. Noise: Shall not exceed 55 dBA at the lot line adjacent to a residential use or where residential uses are allowed by right.

d. Feedlot, Commercial

A commercial feedlot in the WMRA zone district shall comply with the following standards:

- i. Minimum Lot Area: The minimum lot area shall be 35 acres.
- ii. Setbacks from Residential: The feedlot shall be a minimum of 200 feet from lot lines abutting existing dwellings or property zoned for residential use.
- iii. Manure Management Plan: As part of the Special Use application, the applicant shall prepare a Manure Management Plan for approval by the county.
- iv. Water Protection: No unconfined manure stacking or piling shall occur within the Source Water Protection Area Overlay (as set forth within Section 5-319 J.), within 300 feet of a stream, or within 100 feet of an irrigation ditch.

e. Lumber Mill

A lumber mill shall comply with the following standards:

- i. Minimum Lot Area: the minimum lot area shall be 35 acres.
- ii. Maximum Structure Size:

LOT AREA	SIZE OF STRUCTURES
35 TO 150 acres (Small Scale)	2,000 square foot maximum
>150 acres (Medium Scale)	10,000 square foot maximum

- iii. Noise: Noise at the lot line shall not exceed 55 dBA adjacent to a residential use or where residential uses are allowed by right.
- iv. Hours of Operation: Hours of operation shall be limited to 7:00 a.m. to 7:00 p.m.
- v. Setback: The setback from the lot line adjacent to a residential use shall be 100 feet.
- vi. Wright's Mesa Source Water Protection Area Overlay: This use is prohibited in the Source Water Protection Area, as set forth in Section 5-319 J.
- vii. Prohibited: This use is prohibited in the Gunnison Sage-grouse Habitat Overlay.

f. Small-Scale Business

The intent of the small-scale business uses are to allow residents in the WMRA district to locate and operate small-scale service and contracting businesses or lease such businesses, which are compatible with the rural character of the district and agricultural operations and supplemental to an on-going agricultural business or residential use on a lot. Such businesses

should locate near a paved county road; however, some businesses may locate to provide economical and convenient services in the area or to supplement farming and ranching as a source of income. Businesses shall operate with designs and conditions that mitigate impacts on neighboring residential properties. A small-scale business in the WMRA zone district shall comply with the following standards.

- i. Minimum Lot Area: The minimum lot area shall be five acres.
- ii. Structure Size/Lot Size: The business shall comply with the maximum structure size related to lot size identified in the table.

LOT AREA	SIZE OF STRUCTURES
<35 acres	1,000 square foot maximum
35 TO 150 acres	2,000 square foot maximum
>150 acres	4,000 square foot maximum. All structures larger than 2,000 square feet shall be permitted by special use review

- iii. Vehicles: The business shall not have more than four motor vehicles stored on the property. Vehicles parking shall be screened and placed to the rear of structure(s) to the extent possible.
- iv. Number of Employees: The business shall not have more than four employees working on the property.
- v. Heavy Equipment: The business shall have no heavy equipment stored outside.
- vi. Outdoor Storage (Size and Screening):

LOT AREA	SETBACK
<35 acres	No storage yard permitted
35 to 150 acres	2,000 square foot maximum, screened with fencing or landscaping
>150 acres	2,000 square foot plus an additional 1,000 square feet of storage area shall be allowed for each additional 10 acres not to exceed 10,000 square feet, screened with landscaping

- vii. Setbacks from Residential: The following minimum setbacks shall apply from any lot line abutting a property with an existing dwelling unit or zoned for residential use:

LOT AREA	SETBACK
<35 acres	100 feet from lot line
35 to 150 acres	150 feet from lot line
>150 acres	200 feet from lot line

- viii. Owner: The use shall be operated or maintained by the owner, or occupant of the land upon which the activity is being conducted.
- ix. Expansion: Once a small-scale business needs to expand its area, number of employees, or traffic beyond the capacity and character of the area, the business shall relocate to a location appropriately zoned for commercial or light industry.
- x. Adaptive Re-use: The adaptive re-use of farm structures for the intended use of home occupations and small businesses is allowed with respect to the use of small-scale businesses.

g. Stable Commercial

A commercial stable shall comply with the following standards:

- i. Structure Size/Lot Size: Structures shall be permitted on lots that conform to the minimum lot or parcel size set forth in the table below:

LOT AREA	SIZE OF STRUCTURES
<35 acres	A commercial stable is not allowed on lots smaller than 35 acres
35 to 150 acres	20,000 square foot maximum
>150 acres	30,000 square foot maximum

h. Wayside Stand

A wayside stand shall comply with the following standards:

- i. Maximum Structure Size: The structure shall not exceed 1,000 square feet.
- ii. Parking: Parking shall be provided on-site with all-weather surface, such as gravel, to control erosion and dust. Parking shall comply with standards set forth in Section 5-702.

i. Kennel and Veterinary Clinic or Hospital

A kennel in the WMLI and WMRA zone districts shall comply with the following standard:

- i. Outdoor Runs/Residential Setback: Outdoor runs shall only be permitted by special use review and shall only be approved if adverse noise and odors on nearby properties can be mitigated.

II. Residential

a. Cottage Housing

A cottage housing development in the WMTR district shall develop as part of a PUD and shall comply with the following standards:

- i. Lot Area (Minimum and Maximum): Minimum lot area shall be 30,000 square feet. Maximum lot area shall be 45,000 square feet.

- ii. Number of Units (Minimum and Maximum): Shall include a minimum of four units and a maximum of nine cottage dwelling units, all included in one development application.
- iii. Size of Units: A detached dwelling unit shall not be greater than 850 square feet in lot coverage or a maximum floor area of 1,500 square feet or 1.5 times the lot coverage, whichever is less.
- iv. Common Open Space: Each cottage dwelling unit shall include a minimum of 250 square feet of common open space. At least 50% of each cottage dwelling unit shall abut common open space. All cottage dwelling units shall be within 60 feet of common open space, and the common open space shall have cottage dwelling units abutting at least 50% of its boundaries.

b. Dwelling, Live/Work

The live/work use may have a maximum of one additional employee who is not a resident.

c. Dwelling, Multi-Family

Multi-family units in the WMTR district shall be developed only as part of PUD and shall comply with the following standards:

- i. Location: Units shall be located within the WMTR or WMLI master plan area. The density and appearance must be compatible with the surrounding neighborhood.
- ii. Streets: Streets shall be adequate for traffic generated by the use.
- iii. Variety: The development provides a variety of model or building types.
- iv. Massing: Design techniques shall be used to break up the scale of buildings that are greater than 20,000 square feet GFA to provide visual diversity.
- v. Utilities: Utilities shall be adequate to serve the development.

d. Secondary Dwelling Unit

A secondary dwelling shall be allowed provided that it complies with the following standards:

- i. Minimum Lot Size: The minimum lot size shall be five acres.
- ii. Secondary Use: No uses other than a single-family dwelling, home occupation(s), and/or agriculture and ranching activities exist on the property, and no Subdivision Exemption for Wright's Mesa has been granted for the parcel, and the parcel was not created through a Subdivision Exemption for Wright's Mesa.
- iii. Location: The secondary dwelling unit may be attached to or located within 300 feet of the primary residence (as measured between the closest exterior walls). A secondary dwelling unit more than 300 feet from the primary residence shall only be permitted by special use review.
- iv. Size: The unit shall not exceed 2,500 square feet floor area, and

shall contain full kitchen and bathroom facilities.

- v. Ownership: Secondary Dwelling Units shall not be conveyed or sold separately from the remainder of the parcel and shall remain under the same ownership as the primary residence.

e. Boarding or Rooming House

A boarding or rooming house use shall provide at least 70 square feet of habitable floor area for each room intended for sleeping and at least 30 additional square feet of floor space for each additional intended occupant.

f. Co-Housing

Co-housing units may be permitted in the WMTR and WMLI zone districts only as part of a PUD if they are located within the WMTR or WMLI Master Plan area. The density and appearance must be compatible with the surrounding neighborhood.

III. Public and Institutional

a. Community/Recreational Center

A community and/or recreation center shall comply with the following standards:

- i. Size: Structure shall not exceed 15,000 square feet of Gross Floor Area.
- ii. Lighting: Lighting will be screened and downcast.
- iii. Noise: Building will be designed so that noise will not interfere with the surrounding uses. Noise shall not exceed 55 dBA at the lot line adjacent to a residential use or where residential uses are allowed by right.
- iv. Storage: Adequate provision shall be made in the design and/or location of building and loading areas for equipment and supplies, so that storage and service areas are screened from adjacent residential areas and the street.
- v. Hours of Operation: Hours of operation shall be determined through special use review.
- vi. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District.
- vii. Parking: Parking shall comply with Section 5-702. Parking shall be screened and sited to minimize visual impacts of the development.
- viii. Other: Alcohol may be served at private functions pursuant to a valid special events liquor license.

b. Government Administration and Civic Building

A government administration and civic building shall comply with the following standards:

- i. Maximum size: The Gross Floor Area shall not exceed 10,000 square feet.
- ii. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District.
- iii. Parking: Parking shall comply with section 5-702 and shall be screened and sited to minimize visual impacts of the development.

c. Educational Facility

Any school or trade or vocational school shall comply with the following standards:

- i. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District.
- ii. Parking: Parking shall comply with Section 5-702 and shall be sited to minimize the visual impacts of the development.
- iii. Adequate Roads and Utilities. The applicant shall demonstrate that adequate roads exist to access the property and that adequate utilities are or will be in place to service the facility.
- iv. Noise: Noise at the lot line shall not exceed 55dBA adjacent to a residential use or where residential uses are allowed by right.

d. Public Safety Facilities

A public safety facility shall comply with the following standards:

- i. Minimum Lot Area: The minimum lot area shall be one acre.
- ii. Storage: The total area of storage shall not exceed more than 20% of the lot.
- iii. Setbacks from Residential: The public safety facility shall be a minimum of 50 feet from lot lines abutting an existing dwelling or property zoned for residential use.

e. Religious Assembly Facilities

Any religious facility shall comply with the following standards:

- i. Maximum Size: The gross floor area shall not exceed 15,000 square feet in the WMTR and WMLI zone districts and 10,000 square feet in the WMRA zone district.
- ii. Maximum Auditorium Seating: The main worship area or sanctuary shall not exceed seating capacity for 200 persons.
- iii. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District.
- iv. Parking: Shall comply with Section 5-702. Parking shall be screened and sited to minimize visual impacts of the development.

f. Tower/Antenna

Any transmission tower, facility or antenna shall comply with the following standards in Land Use Code Section 5-27 Wireless Services and Telecommunication Facilities.

g. Renewable Energy Facility

Any renewable energy facility shall comply with the following standards:

- i. Maximum Height: The use may be approved using the administrative review and development permit process if it will not exceed the district's maximum height limit by up to 20% by seeking approval through the Special Use process indicated in the use table.
- ii. Minimum Lot Area: the minimum lot area shall be 35 acres.
- iii. Noise: Noise at the lot line shall not exceed 55dBA adjacent to a residential use or where residential uses are allowed by right.
- iv. Setback: The setback from the lot line adjacent to a residential use shall be 200 feet.
- v. Review Procedure: The use may extend above the specified maximum limit with a One-Step review Special Use Permit approval.
- vi. Gunnison Sage-grouse Habitat: Wind turbines are restricted in lek sites within the Gunnison Sage-grouse Habitat Overlay.

IV. Commercial

a. Conference and Training Centers and Rural Resort or Retreat

A conference and training center shall comply with the following standards:

- i. Maximum Size: The gross floor area of the structure(s) shall not exceed 10,000 square feet.
- ii. Maximum Auditorium Seating/Events: The main auditorium or meeting room shall not exceed capacity for 200 persons. No event shall have more than 200 people in attendance.
- iii. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District.
- iv. Parking: Parking shall comply with Section 5-702. Parking shall be screened and placed to the side or rear of the structure(s).

b. Restaurant or Bakery

A restaurant or bakery shall comply with the following standards:

- i. In the WMRA zone district, the restaurant or bakery must be related to an on-site agricultural use or on-site agricultural processing and the restaurant or bakery shall not exceed 2,000 square feet.

c. Office

An office located outside a home shall comply with the standards in this Section (Offices located in homes that are being occupied for residential purposes are defined either as home occupations or as accessory to the residential use and are subject to applicable requirements in Section 5-319

H.VI. Accessory Uses and Structures.)

- i. **Maximum Structure Size:** The office shall comply with the maximum structure size by zone district as provided in the table below.

LOT AREA	SIZE OF STRUCTURES
WMRA	2,000 square feet of floor area maximum
WMLI	Up to 20,000 square feet of floor area for an office complex, with offices designed as smaller units

- ii. **Parking:** Parking shall comply with Section 5-702 and shall be screened and placed to the side or rear of structure(s).

d. Vehicle Service and Repair and Parts Sales (indoor)

Vehicle Service and Repair Garages shall comply with the following standards:

- i. **Frontage:** To the maximum extent feasible, the entrance to a vehicle repair bay shall not face the primary street frontage.
- ii. **Screening and Storage:** Vehicle service bays facing a rear or side setback shall be screened from adjacent residentially zoned properties. All parts and equipment shall be stored indoors at all times or screened from off-site view by a wall or fence that is at least six feet in height.
- iii. **No off-site parking** for vehicles awaiting repairs shall occur.

e. Bed and Breakfast

A Bed and Breakfast shall comply with the following standards:

- i. **Minimum Lot Area:** In the WMRA district, the minimum lot area shall be five acres. In other districts, the minimum lot area shall be consistent with the zoning district standard.
- ii. **Number of Rooms for Rent:** The maximum number of rooms for rent shall be based on the lot area, as shown in the table below. Rental of three or fewer bedrooms will be considered an accessory use to a single-family residence.

LOT AREA	MAXIMUM NUMBER OF ROOMS FOR RENT
5 or more acres	3 rooms as an Accessory Use to SFR
5 to 150 acres	5 rooms
>150 acres	10 rooms

- iii. **Setback:** The structure shall be setback a minimum of 100 feet from the lot line.

- iv. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District or by a water supply system and sewage collection and disposal system approved by the Colorado Department of Public Health and Environment.
- v. Parking Screening: Provisions shall be made for adequate all-weather parking, such as gravel. Parking shall be screened and placed to the side or rear of the structures(s) to the extent possible.

f. Recreational Vehicle Park, Travel Trailer Park or Campground in the WMLI Zone District

A recreational vehicle/travel trailer park, campground and incidental facilities shall comply with all applicable state Colorado Department of Public Health and Environment (CHPHE) and County Environmental Health review standards and with the following standards:

- i. Minimum Lot Area: The minimum lot area shall be two acres.
- ii. Maximum Lot Area: The maximum lot area shall be five acres.
- iii. Lot Size/Number of Spaces: The campground may have up to 10 spaces per acre. An applicant is not automatically entitled to this maximum density.
- iv. Duration of Stay: Such areas may be occupied only by persons using RV's, travel trailers, truck campers, and tents for overnight and short duration camping. No park or campground shall be used for long-term housing (i.e., stays of longer than 30 consecutive days or a total of 30 days within any 120-day period) unless an alternative time-frame is established as part of a special use review.
- v. Size of Spaces: Each space shall be at least 1,500 square feet and at least 30 feet wide.
- vi. Setbacks from Property Line: Front 25 feet, Side 25 feet, Rear 25 feet. The minimum setback from a residential use shall be 100 feet.
- vii. Central Water and Sewer: Each campground or park shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District or a water supply system and sewage collection and disposal system approved by the Colorado Department of Public Health and Environment.
- viii. Central Refuse Disposal: The storage, collection, and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents, or other nuisance conditions.
- ix. Service Buildings: Each space shall be located a minimum of 200 feet from a service building (with restroom).
- x. Parking and Walkways Surface: Provisions shall be made for adequate all-weather parking, such as gravel, and walkways to each space. A minimum of one auto parking space shall be provided on each RV space or campsite. One additional auto parking space shall be provided for each of five RV spaces or

campsites.

- xi. Screening and Landscaping: The campground or park shall be landscaped and screened from adjacent roadways and residential land uses. Such landscaping and screening plans must mitigate the visual impacts for the RV Park on the surrounding area. The adequacy of the visual mitigation shall be considered as part of the Special Use Permit.
- xii. Open Space and Recreational Areas: The campground or park shall provide common recreational area/open space area of sufficient size to meet the needs of the park occupants. Such area or areas shall not be less than ten percent of the gross area of the park or campground.
- xiii. Access: Entrances and Exits from a State Highway or County Road shall require the applicant to obtain the necessary access permits.
- xiv. A drainage plan for the site shall be provided.
- xv. Convenience establishment may be permitted as an accessory use subject to the following restrictions:
 - (a) Such establishment shall be restricted in their uses to occupants of the park.
 - (b) Such establishment shall present no visible evidence from any street outside the park of their commercial character which would attract customers other than occupants of the park.
 - (c) The structure of such facility shall not be located closer than 100 feet to any public street and shall be accessible only from a street within the park or campground.
 - (d) Such establishment shall be discontinued if the primary use is no longer in operation.
- xvi. Interior two-way roads shall be twenty (20) feet minimum width and all interior one-way roads shall be sixteen (16) feet minimum width.
- xvii. Roadways shall be designed for the safe and convenient movement of vehicles. All roadways shall be crowned to facilitate drainage. The type of road surface, gravel with dust suppressant, chip seal or paving will be determined based upon location and density as part of the Special Use Review.

g. Campground Semi-Private

A Semi-Primitive Campground shall comply with the following standards:

- i. A Semi-Primitive Campground has rudimentary facilities where such improvements are designed for protection of the site and not for the comfort of the minimal number of campers in the limited use area.
- ii. A Semi-Primitive Campground is accessible only by walk-in, equestrian, or motorized trail vehicles.
- iii. RV or trailer camping would not be allowed in a Semi-Primitive Campground.

- iv. A Semi-Primitive Campground shall comply with all applicable state of Colorado Department of Public Health and Environment (CDPHE) and County Environmental Health review standards.
- v. Number of Guests: The Campground may have up to 20 overnight guests on more than 150 acres. Campgrounds accommodating more than 20 overnight guests or less than 150 acres shall be permitted by special use review.

h. Hotel or Motel

- i. Number of Units: Shall be determined upon submittal of site plan, lot size, parking requirement and landscaping plan.
- ii. Parking: Must provide one space per unit plus one space per every 3 employees.
- iii. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation District or a water supply system and sewage collection and disposal system approved by the Colorado Department of Public Health and Environment and the County Health Department.

i. Lodge (Hunting or Guest Ranch)

A lodge shall comply with the following standards:

- i. Number of Guests: The lodge may have up to 20 overnight guests on more than 150 acres. Lodges accommodating more than 20 overnight guests or less than 150 acres shall be permitted by special use review.
- ii. Setback: The structure shall be setback a minimum of 100 feet from the lot line.
- iii. Utilities: The facility shall connect and be served by the Norwood Water Commission and the Norwood Sanitation district or a water supply system and sewage collection and disposal system approved by the Colorado Department of Public Health and Environment and the County Health Department.
- iv. Parking and Screening: Provisions shall be made for adequate all-weather parking, such as gravel. Parking shall be screened from a county road or state highway and placed to the side or rear of structure(s) to the extent possible.

j. Rural Recreational Establishment (Outdoor)

Outdoor shooting ranges are not allowed on Wright's Mesa.

V. Industrial

a. Logging

A logging operation is subject to the following standards:

- i. Board Feet Hauling Allowances by Lot Size:

LOT AREA	HAULING ALLOWANCE
<35 acres	Hauling up to 15,000 board feet in any 12 month period is exempt from the development permit requirement and standards below.
35 to 150 acres	Hauling up to 50,000 board feet in any 12 month period is subject to provisions in Section 5-17 and standards below
>150 acres	Hauling up to 50,000 board feet in any 12 month period is exempt from the development permit requirement, but shall comply with standards below. Hauling 50,000 board feet or more in any 12 month period is subject to provisions in Section 5-17 and standards below.

- ii. Setbacks: Setback shall be 100 feet from lot line to logging except to selectively remove dead or diseased trees.
- iii. Prohibited: Removing, damaging, or destroying trees or other vegetation within the Wright's Mesa Source Water Protection Area Overlay or within the Gunnison Sage-grouse Habitat Overlay is prohibited except to selectively remove dead or diseased trees or if requested by CPW.

b. Light Manufacturing

Light manufacturing shall comply with the following standards:

- i. Size of Structure: The maximum structure size is based on the zone district.

ZONE DISTRICT	SIZE OF STRUCTURES
WMLI	10,000 square feet floor area maximum

- ii. Vehicles: The business shall not have more than four motor vehicles stored on the property in the WMRA zone district. Motor vehicle parking shall be screened and placed to the side of structure(s) to the extent possible.
- iii. Number of Employees: The business shall not have more than four employees working on the property in the WMRA zone district.
- iv. Heavy Equipment: The business shall have no more than two pieces of heavy equipment stored outside in the WMRA zone district. Equipment shall be screened from public right-of-way.
- v. Outdoor Storage (Size and Screening): The maximum size is based on the zone district.

LOT AREA	OUTDOOR STORAGE ALLOWANCE
WMLI	1,000 square foot maximum; screened with fencing or landscaping
WMRA	500 square foot maximum, screened with fencing or landscaping

c. General Industrial Service (Major) and Heavy Manufacturing

Any such use in the WMRA zone district shall comply with the following standards that are consistent with the Wright's Mesa Master Plan:

i. Location:

The service, manufacturing, and processing use must be sited:

- (a) Where land is already impacted by industry or mining;
- (b) Away from Highway 145 on a paved county road;
- (c) Where it will minimize visibility and skylining from Highway 145 and county roads;
- (d) No permitted in the Wright's Mesa Source Water Protection Area Overlay;
- (e) Not permitted in the Gunnison Sage-grouse Habitat Overlay or Elk Winter Range; and
- (f) Where prevailing winds will not affect the Town of Norwood or neighborhoods.

ii. Standards:

In addition to meeting the locational criteria in (i) above, the following standards shall apply:

- (a) Minimum Lot Size: The minimum lot size shall be ten acres;
- (b) Setback: A minimum setback of 200 feet from the lot line shall apply from an existing dwelling or property zoned for residential use;
- (c) Outdoor storage, waste, and refuse facilities, mechanical equipment, loading facilities, and heavy equipment shall be screened with an opaque six foot fence, or landscaping and natural berming (with an approved landscape plan);
- (d) Structures shall have a maximum height of 35 feet;
- (e) Vibration shall not be noticeable beyond the lot line;
- (f) Noise: Noise shall not exceed 60 dBA at a lot line that abuts a commercial property or 55 dBA at the property line adjacent to a residential use or where residential uses are allowed by right;
- (g) Hours of Operation: Shall be limited to 7:00 a.m. to 7:00 p.m.;
- (h) Applicant shall submit a plan to address chemicals, waste, disposal methods, potential impacts to air and water (and comply with all other county, state, and federal standards).

d. Construction Staging Area/Stockpiling of Dirt

A construction staging area and stockpiling of dirt shall comply with the following standards:

- i. Minimum Lot Size:** The minimum lot size shall be five acres.
- ii. Pile Area:** A single stockpile of dirt shall not exceed an area greater than one acre.

- iii. Height: Construction materials and a single stockpile of dirt shall not exceed 15 feet above natural grade.
- iv. Slope: The slope shall not exceed a 3:1 ratio.
- v. No stockpile is permitted in the Wright's Mesa Source Water Protection Area Overlay or the Gunnison Sage-grouse Habitat Overlay.
- vi. The use shall comply with all other standards in Section 5-4.

e. Mini-Storage

Mini-storage units shall comply with the following standards:

- i. Size: The facility shall not exceed 2,500 square feet in the WMRA zone district. Facilities larger than 2,500 square feet in the WMLI zone district are only permitted by special use.
- ii. Setbacks: The mini-storage structure shall be set back at least 100 feet from the lot line abutting a highway or county road or an existing dwelling or property zoned for residential use.
- iii. Screening and Fencing: A six foot opaque perimeter wall or fence, or landscaping and natural berming (with an approved landscape plan) shall be constructed adjacent to residential areas to provide screening.
- iv. Lighting: Exterior lighting shall illuminate downward.
- v. Signage: Signage shall be unlit.
- vi. Outdoor Storage: No exterior storage of goods or materials shall occur. Covered trash dumpsters shall be maintained on-site.

f. Recreational Vehicle (RV) Storage and Service

An RV storage and service use shall comply with the following standards:

- i. Size: The outdoor storage area shall not exceed 40,000 square feet.
- ii. Screening and Fencing: The storage area shall be fenced with a sight-obscuring fence that is a minimum of six feet high. The design of the fence shall be compatible with the surrounding properties and shall be approved by the Planning Director.

g. Material Recovery Facility or Salvage, Junk Yard

These uses shall comply with the following standard:

- i. Stacking: No material shall be piled or stacked to a height in excess of 15 feet above the ground level.
- ii. Screening and Fencing: All site boundaries shall be fenced with a sight-obscuring fence at least eight feet high, except on the portion of site boundaries where a structure abuts the lot line. The design of the fence shall be compatible with the surrounding properties and shall be approved by the Planning Director.

VI. Accessory Uses and Structures

An accessory use shall be incidental and customarily subordinate to a principal

use of the property. All accessory uses shall comply with the standards for the principal use and the standards set forth in this section.

a. Alley House (Accessory)

An Alley House, as an accessory use to a conforming single family dwelling in the WMTR district, is subject to the following conditions:

- i. **Size of Building:** The Alley House may contain up to 500 square feet or 50% of the finished and heated square footage of an otherwise conforming single-family dwelling or double-wide manufacture/mobile home, a garage or other accessory building, subject to compliance with applicable setbacks and maximum lot coverage requirements.
- ii. **Configuration:** The Alley House may be attached or detached to an otherwise conforming single family dwelling unit or a double wide manufactured/mobile home, a garage or other accessory building, subject to compliance with applicable setbacks and maximum lot coverage requirements.
- iii. **Parking:** One additional off-street parking space with access to and from an alley shall be provided for the Alley House, in addition to off-street parking otherwise required for single family residences in Section 5-702.
- iv. **Utilities:** All applicable water and sewer fees shall be paid for the accessory Alley House as required for any residence or dwelling unit.
- v. **Other:** The Alley House shall not be sold separately.

b. Heliport

A heliport is an accessory use for public purposes only in the WMLI district and shall comply with the following standards:

- i. **Minimum Lot Area:** The minimum lot area shall be two acres.
- ii. **General Aviation Standards:** The heliport shall meet all state and federal aviation standards and design criteria.
- iii. **Setbacks from Residential:** The heliport shall be a minimum of 500 feet from an existing dwelling or property zoned for residential use.
- iv. **Fire Protection:** The use/development shall include adequate fire protection measures.

c. Home Occupation

i. Home Occupation(s) in the WMTR and WMLI districts shall be permitted as accessory uses to a dwelling unit, provided each home occupation complies with the following standards:

- (a) **Activity/Location:** The use shall be clearly incidental or secondary to the residential use of the building
- (b) **Structural Alteration:** The use does not involve any structural alteration in the main building or any of its rooms or involve the

installation of machinery or additional equipment other than that customary to normal household operations.

- (c) Employees and Residency: No person other than a member of the family or owner or the user of the principal dwelling shall be employed or work in or at such home occupation.
- (d) Signs: A person who engages in a home occupation shall not use an advertisement, sign, or display on or off the premises.
- (e) Hours: A home occupation shall not operate during the hours other than 8:00 a.m. to 10:00 p.m.
- (f) Patrons: A home occupation shall not involve more than 4 patrons on the premises at one time.
- (g) Off-Site Impacts/Noise: A home occupation shall not generate loud and raucous noise, or utilize mechanical, electrical, or other equipment or items that produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor, or other nuisance outside the residential building that substantially and unreasonably interferes with public peace and comfort.
- (h) Outdoor Storage: The use shall not store outside of the dwelling unit any equipment or materials used in the home occupation.
- (i) Occupational License: the use shall operate pursuant to a valid occupational license for the use held by the resident of the dwelling unit, if required.

ii. In the WMRA and WMRR districts, a home occupation shall be permitted as an accessory use to a dwelling unit subject to compliance with the standards set forth in the Land Use Code Article 6, Definitions (“Home Occupation”).

d. Outdoor Storage

Outdoor storage, as an accessory use in the WMLI zone district, is subject to the following standards:

- i. Location: Each outdoor storage area shall be incorporated into the overall design of the primary structure on the site and shall be located at the rear of the primary structure. No materials may be stored in areas intended for vehicular or pedestrian circulation.
- ii. Type of Goods: Goods stored in an approved outdoor storage area shall be limited to those sold on the premises as part of an associated primary use.
- iii. Screening and Fencing: Each outdoor storage area shall be screened from view from all lot lines and adjacent right-of-way by an opaque fence or wall that incorporates at least one of the predominant materials and one of the predominant colors used in the primary structure. The fence shall be of the appropriate height that all outdoor storage areas are effectively screened. Materials may not be stored higher than the height of the primary structure. A landscaped earthen berm may be used instead of or in combination with a required fence or wall.

e. Stable, Accessory Use

A stable, as an accessory use, shall comply with the following standards:

- i. Minimum Lot Size: The lot shall be at least two acres in size.
- ii. Size: An accessory use stable shall not exceed 6,000 square feet.
- iii. Setback: The stable shall be set back from the lot line at least 50 feet.

VII. Temporary Uses and Structures

The WMTR, WMLI, and WMRA zone districts allow for the establishment of certain temporary uses for a limited duration, provided that such uses comply with the general and specific standards of this Section.

a. Asphalt or Concrete Batch Plant (Temporary)

A temporary asphalt or concrete batching plant to furnish concrete, asphalt, or both to the specific project for which a Temporary Development Permit is issued shall comply with the following standards.

- i. Duration: The batch plant Temporary Permit will be valid for up to six months.
- ii. Location: The placement of a temporary batching plant for a private project is restricted to the site of the project.
- iii. Applicable Laws: The batch plant site shall comply with all applicable provisions of county, state, and federal laws.
- iv. Setbacks: The batch plant shall be located a minimum of 600 feet from a residence.
- v. Hours of Operation: Limited to Monday through Friday, 7:00 a.m. to 7:00 p.m.
- vi. Off-Site Impacts: No portion of the batch plant or its operation shall be located on a public street. The temporary plant shall be operated in a manner that eliminates unnecessary dust, noise, and odor (as illustrated by, but not limited to, covering trucks, hoppers, chutes, loading and unloading devices and mixing operations, and maintaining driveways and parking areas free of dust.
- vii. Completion: The site must be clear of all equipment, material, and debris upon completion of the project. At termination and/or removal of plant permit, permittee shall have the person responsible walk the site with the County Building Official or his/her designee to verify the site meets county approval. All public improvements that are damaged during the operation of the temporary batching plant must be repaired within 30 days of completion of the project.

b. Construction Staging Area/Stockpiling of Dirt (Temporary)

A construction staging area and stockpiling of dirt shall comply with the following standards to obtain a Temporary Development Permit:

- i. Standards in Section 5-319 H.V.d. shall apply.

- ii. Duration: A temporary permit allowing stockpiling may be issued for a period not to exceed 120 days from approval of a Temporary Development Permit, unless an alternative time period is approved by the County.

c. Trailer (Temporary)

A temporary use permit may be issued for a mobile office trailer used while model homes are being constructed subject to the following conditions:

- i. Duration: A temporary permit allowing sales from a mobile office trailer may be issued for a period not to exceed 120 days from approval of a Temporary Development Permit, with no extensions, while permanent model homes are being constructed.
- ii. The trailer shall not be used for living or sleeping purposes.
- iii. Skirting shall be installed around the trailer to conceal the undercarriage.
- iv. The trailer shall be located in a platted subdivision on a lot that is owned by the applicant/builder and shall not be located within a required front yard setback.
- v. A building permit must be issued for the model home at the time of the temporary permit for the trailer.

5-319 I. Site Development Standards

Uses on Wright's Mesa shall comply with the following site development standards.

I. General Wright's Mesa Standards

All development shall comply with the standards set forth in Section 5-6, which establishes service standards; Section 5-7, which establishes improvement standards (including but not limited to parking drainage and flood control, signs, lots, monuments, and landscaping); Section 5-8, dedication standards (including but not limited to parks and public area, school land); and the following:

a. Landscaping and Screening

- i. The Planning Commission and the Board of County Commissioners may require planting of trees and other plant material to mitigate visual impacts of development.

b. Lighting

i. General Lighting Standards

Lighting regulations regulate outdoor night-time fixtures to preserve, protect, and enhance the dark sky while conserving energy, permitting reasonable and safe use of outdoor night-time lighting, minimizing glare and obtrusive light, and helping to protect the natural environment from the damaging effects of night lighting. All outdoor fixtures shall be required to shield exterior lighting to prevent direct visibility of light bulbs from off-site. All exterior lighting shall be directed toward the ground or

the surface of a building. High-intensity sodium-vapor and similar lighting are prohibited.

ii. **Exempt Lighting**

The following are exempt from the requirements of this Section:

- (a) Outdoor lighting fixtures existing or legally installed prior to the effective date of this Section; however, when existing lighting fixtures are repaired or replaced, they will be subject to the provisions of this Section.
- (b) Outdoor lighting fixtures that are necessary for worker safety at farms, ranches or dairies. IDA full-cutoff shielding is encouraged.
- (c) Outdoor lighting for stairs, ramps, exit signs, and other illumination required by building code, as long as IDA full-cutoff shielding is employed.
- (d) Holiday or temporary lighting (less than 30 days use in any one year).
- (e) Emergency lighting used by police, firefighters, or medical personnel and that is in operation as long as the emergency exists.

II. Additional Site Development Standards for WMTR and WMLI Zone Districts

All uses on Wright's Mesa in the Norwood Master Plan Boundary are subject to the general site development standards in subsection I above plus the following additional standards:

a. Lighting Standards for WMTR and WMLI Zone Districts

The following lighting standards apply in the WMTR and WMLI Zone Districts.

- i. **High Intensity sodium-Vapor Prohibited.**
High-intensity sodium-vapor and similar lighting shall be prohibited.
- ii. **Shielding and Lighting Design**
All exterior lighting installations subject to this Code shall be designed and installed to be fully shielded ("full cutoff," as described by the International Dark-sky Association (IDA)). In residential area, lights should be shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter. Parking lots and other background spaces shall be illuminated as unobtrusively as possible with full cut-off shielding while meeting the functional needs of safe circulation and protection of people and property. Foreground spaces, such as building entrances and outside seating areas, shall utilize local lighting that defines the space without glare. In no case shall exterior lighting directly illuminate any point off-site.

b. Performance Standards

All uses shall conform in operations, location, and construction to the subject performance standards herein specified so that the public health, safety, and welfare will be protected. The location, size, design, and operating characteristics of all uses shall minimize adverse impacts, including visual impacts on surrounding properties.

- i. Noise: It is unlawful for any person to make, continue, or cause to permit to be made or continue any unreasonable noise upon any premises under such person's control or operation. "Unreasonable noise" means any sound or such level or duration as to be or tend to be injurious to human health or welfare, or which would interfere with the enjoyment of life or property. Noise shall not exceed 55 dBA at the lot line.
- ii. Smoke and Particulate Matter: No operation or use shall at any time create smoke and particulate matter beyond the property perimeter of the source of operation that causes a nuisance or distracts from the use and enjoyment of adjacent property.
- iii. Odors: No use shall be located or operated in any district that involves the emission of odors from a source of operation where the odors are noticeable beyond the property perimeter.
- iv. Fire and Explosive Hazard Materials: No use involving the manufacture or storage of compounds or products that decompose by detonation shall be permitted, except that chlorates, nitrates, phosphorous, and similar substances and compounds in small quantities for use by industry, school laboratories, pharmacists, or wholesalers may be permitted when approved by the Norwood Fire Protection District as not presenting a fire or explosion hazard. The storage and use of all flammable liquids and materials shall only be permitted when such use conforms to county standards.
- v. Toxic Materials: No operation shall emit a concentration across the property perimeter of toxic or noxious matter that will exceed threshold limits set forth by the Colorado Department of Health.
- vi. Vibration: No operation or use shall at any time create earthbound vibration across the property perimeter of the source of operation that creates a nuisance or distracts from the use and enjoyment of adjacent property.

III. Highway 145 Scenic Corridor Standards

These standards are intended to protect the scenic resources along Highway 145, including those lands adjacent to and most visible from State Highway 145 which substantially contribute to the unique visual character of Wright's Mesa or the entrance to Norwood. The standards steer development away from the most highly visible sites and ensure that developments are designed to complement the natural features to maintain an aesthetically pleasing, rural approach to Norwood. Land development may be clustered elsewhere on a site, as may be appropriate.

a. Applicability

Development on any parcel of land (or any portion of land) that falls within 100 feet of the right-of-way of Highway 145 on Wright's Mesa shall comply with these standards.

b. Exemption

These standards do not apply to agriculture (use of land for the production of food, including crops, pasture, raising of livestock, greenhouses or accessory

uses or structures ancillary to the primary agricultural use.

c. Standards

Development within 100 feet of the Highway 145 right-of-way shall generally comply with the standards in this Section. Compliance with every standard is not required, but developments shall comply with the cumulative intent of these standards:

- i. Utilize existing topography such as dry ridges and hills to screen buildings to the maximum extent possible from the highway.
- ii. Design developments to complement the natural topography of the land, whenever possible and appropriate.
- iii. Utilize innovative architectural techniques such as earth sheltered design and clustering of structures in the least visible portion of the site.
- iv. Design structure height and bulk to avoid to the maximum extent possible visibility from the highway.
- v. Avoid locating uses on the highest ground or most visible sites from the highway.
- vi. Cluster development outside of the 100-foot setback or on a suitable site with the least possible visual impact on the highway.
- vii. Avoid development within wetland and wildlife habitat areas.
- viii. Utilize landforms and earth moving to complement and enhance development rather than as primary devices for screening development from the highway.

5-319 J. Overlays

This section establishes overlays for the Wright's mesa Source Water Protection Area and the Gunnison Sage-grouse Habitat Area, as illustrated in Figure WM1.

I. Wright's Mesa Source Water Protection Area Overlay

The following standards apply to protect water supply and waterworks from pollution, impairment, injury, or damage and to aid in implementing the Town of Norwood "Watershed Protection District Regulations," Ordinance No. 1113, Series of 2008:

a. District Boundary

The boundaries of the Wright's Mesa Source Water Protection Area Overlay are illustrated on Figure WM1.

b. Prohibited Uses

The following uses shall be prohibited within the Wright's Mesa Source Water Protection, unless a permit for such activity is issued by the Town of Norwood:

- (a) Logging,
- (b) Lumber mills,
- (c) Mining,
- (d) Major oil and gas facilities (unless allowed by state regulations), and
- (e) Commercial feed lots and other commercial livestock impoundments not

part of any farming or ranching operations, excluding agricultural operations including grazing and noncommercial domestic livestock impoundments. If the Town of Norwood permits a use listed in Section 5-319 J.I.b.i., above, the county's Special Use Review procedures and standards shall apply.

II. Gunnison Sage-grouse (GUSG) Habitat Overlay

To implement habitat protection measures set forth in the Rangewide Conservation Plan, the following standards apply:

a. District Boundary

The boundaries of the Gunnison Sage-grouse Habitat Overlay are illustrated on Figure WM1.

b. Standards for GUSG Habitat Overlay

i. Sagebrush Removal

Any sagebrush removal or treatment shall be prohibited within 0.60 miles of an active lek, unless maintained to enhance the lek. Within seasonal habitat, the sagebrush loss, removal, or other surface-disturbing activities shall be limited to 30% of the total mapped habitat. (Note: RCP also includes different standards for summer and winter habitats. For winter habitat, treatment shall not exceed 10% of the delineated winter habitat.)

ii. Fences

Fences should not be constructed within 0.60 miles of an active lek and should be avoided in the GUSG Habitat Overlay if they will cause collision danger to GUSG. Agricultural fences are exempt from this provision. If new fences must be placed in the GUSG Habitat Overlay, fence reflectors or other markers to improve the visibility of the fence should be installed in areas where the local biologists deem there is collision danger.

iii. Roads

Local (generally, unpaved) roads shall be prohibited within 0.60 miles of an active lek. Local roads should be avoided in the GUSG Habitat Overlay. If not possible, road length and width shall be minimized to the extent possible. Vehicle speed shall depend on activity in relation to leks and application review; in no cases shall speeds exceed 35 mph.

iv. Powerlines

Consultation with local biologists (CPW and federal) shall occur before placement of any new powerlines, above-ground facilities, or replacement of existing structures in the GUSG Habitat Overlay, to use local knowledge and options (such as local topographic features) to minimize impacts to GUSG. Powerlines shall not be constructed within 0.60 miles of active leks, and transmission lines should not be constructed within .93 miles of an active lek. The S-1 special use review process shall apply to powerlines. Their development shall depend on the level of activity in

relation to leks.

v. Housing

Housing units should not be built within 0.60 miles of active leks. The county will discourage housing development in the GUSG Habitat Overlay. If this is not practical, house should be clustered as much as possible to maintain larger areas of undisturbed habitat.

vi. Wind Power Generation and Communication Towers

Consultation with local biologist (CPW and federal) shall occur before placement of any new wind power generation or communication towers in the GUSG Habitat Overlay, to use local knowledge and options (such as local topographic features) to minimize impacts to GUSG. Wind turbines should be located outside direct lines-of-sight of occupied habitat if possible. Exceptions may be allowed based on topography, line-of-sight (viewshed analysis), type of turbine, and whether effective perch deterrents are used. Wind turbines and communication towers shall not be constructed within 0.60 miles of active leks. Development of wind power generation and communication towers shall depend on level of activity in relation to leks.

vii. Human and Disturbance Activities

Human and disturbance activities in the GUSG Habitat Overlay, except foot and horse traffic, should be confined to established roads and trails.

viii. Pets

Dogs should be on a leash in the GUSG Habitat Overlay area. Dogs used for ranching should be within sight of their owner and under voice control in the GUSG Habitat Overlay area, especially from May through June when hens are nesting and chicks are vulnerable.

5-319 K. Wrights Mesa Definitions

The following definitions apply specifically to Wright's Mesa. They are organized by general use categories and specific use types. **These definitions supplement the list of defined terms in Article 6 of the Land Use Code.**

AGRICULTURAL USES

The use of land for purposes including farming, dairying, pasturage, horticulture, animal and poultry husbandry, and the necessary accessory uses for treating or storing of farm products and parking of equipment. Specific use types include, but are not limited to:

Agricultural Operation

An ongoing or future business or activity of soil cultivation, crop production, and/or the raising of livestock for human use or marketing purposes.

Agriculture

“Use of land for the production of food and fiber, including the growing of crops and/or the grazing of animals on natural prime or improved pastureland. Agricultural activities

include commercial greenhouses, tree farms, and clearing of vegetation exclusively for growing of crops and/or grazing of animals, including background feedlots (seasonal impoundment of livestock associated with any part of any on-going farming and ranching operations)... but not including any agriculture industry or businesses such as commercial feedlots (also known as confined animal feeding operations), animal clinics or hospitals, processing facilities, or other uses listed separately in Table 5-319-3. Agriculture also does not include stockpiling of dirt or other activities when such activities do not result in an active and on-going agricultural activity within 60 days.

Adaptive Re-Use Shop

An antique shop, art gallery, art studio, auction house, coffee house, country store, craft shop, office, or teahouse use located in a farm structure that existed on May 6, 2010. The use shall comply with the relevant parking standards for the use.

AGRICULTURE SUPPORT USE

This use category includes business and service uses related to and that support traditional and new agriculture, horticulture and animal husbandry uses. Such uses are limited to and operate in conjunction with the on-site and on-going agricultural uses. Agricultural support use types include:

Agricultural Processing Facility

Processing operations for agricultural products including meat preparation; feed mills; dairy processing; and fruit and vegetable packing, sorting and grading.

Agricultural Research Facility

A facility for the investigation, testing, and demonstration of agricultural products and processes, including biotechnical agriculture, veterinary, soil, plant and animal sciences. A facility also used for training or educating persons in such activities.

Biotechnical Agriculture

Agriculture that uses biotechnical methods to modify living cells or organisms to produce substances or perform processes.

Farm and Ranch Based Tourism

Rural tourism activities and facilities designed to attract visitors to a farm or ranch to tour or participate in the operations, and to view the scenery, plant and animal life. This definition does not include overnight visits.

Farm Building

Any building or structure used for agricultural purposes and not listed as a separate use in this Land Use Code, including but not limited to sheds, corrals, and agricultural well structures.

Farm Machinery Repair and Sales

A commercial enterprise for the repair of equipment normally or routinely used on farms and gardens, and related parts, tools and accessories, includes small-scale sales of such materials.

Feedlot, Commercial

A confined area for the controlled feeding of animals that is not a background feedlot.

Feedlot, Background

The seasonal impoundment of livestock associated with and part of any on-going farming and ranching operation.

Small-Scale Business

A business or service in the WMRA zone district that may be conducted in a private residence or a new structure to promote new business and to supplement agricultural operations. The business shall operate according to the restrictions and standards of this Land Use Code. The following businesses may be approved as small-scale businesses, business service occupations, personal service occupations, repair and service for farm and ranch equipment, studios for fine arts and crafts, antique sales and the sale of any goods or items produced on the premises.

Stable, Commercial

A building in which horses or other beasts of burden are boarded or are kept for hire, payment, or sale that may include riding areas and tracks.

Wayside Stand

Any structure or land used for the sale, by the owner or his family or tenant, of agricultural or horticultural produce, livestock or merchandise principally produced on-site, but may include produce grown on other farms and accessory products. The stand is clearly a secondary use of the premises and does not change its character.

ANIMAL RELATED SERVICES

Animal related service uses involve the boarding and care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas. Specific use types include but are not limited to:

Kennel

Any facility where animals owned by another person are temporarily boarded for compensation or where dogs are kept for the purpose of breeding, hunting, training, selling, or showing; provided, however, that this definition shall not apply to zoos or to veterinary hospitals. Some kennels have outdoor fenced runs attached to the enclosed structure with pens to provide for outdoor exercise of dogs.

Veterinary Clinic/Hospital

A facility where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-term boarding and shall be only incidental to the clinic/hospital use.

RESIDENTIAL USES**HOUSEHOLD LIVING**

This use category is characterized by residential occupancy of a dwelling unit by a household.

Tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of less than 30 days is classified under the “Lodging Facilities” category). Common accessory uses include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupants’ vehicles. Specific use types include, but are not limited to:

Dwelling, Single-family (“Single-family Residence” and “Single-family Dwelling” defined in Article 6)

Cottage Housing

A comprehensive development consisting of cottages on a single lot. Individual dwelling units are clustered around a shared courtyard (common open space) with off-street parking and access.

Dwelling, Duplex (“Duplex Residence” defined in Article 6)

Dwelling, Live/Work

A structure or portion of a structure: (1) that combines a commercial or manufacturing activity that is allowed in the zone district with a residential living space for the owner of the commercial or manufacturing business, or the owner’s employee, and that person’s household; (2) where the resident owner or employee of the business is responsible for the commercial or manufacturing activity performed; and (3) where the commercial or manufacturing activity conducted takes place subject to a valid business license associated with the premises.

Dwelling, Multi-family (“Multi-family unit” defined in Article 6: includes townhouses)

Mobile Home (“Mobile Home” defined in Article 6)

Mobile Home Park (“Mobile Home Park” defined in Article 6)

Secondary Dwelling Unit

A Secondary Dwelling Unit is a second residence on an existing parcel. Secondary Dwelling Units may be attached to or detached from the Primary Residence.

GROUP LIVING

This use category is characterized by residential occupancy of a structure by a group of people who do not meet the definition of “Household Living”. Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Generally, Group Living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff. Specific use types include, but are not limited to:

Boarding or Rooming House (defined in Article 6)

Co-Housing

A residential arrangement consisting of more than one individually owned dwelling unit

and extensive common facilities, such as a large dining room, kitchen, lounges, meeting rooms, recreation areas, library, workshops, childcare, laundry, greenhouses, or other facilities for use by the organized group of residents living in the co-housing community who participate in the planning, design, ongoing management and maintenance of the residential arrangement and in the routine activities of household living.

Convent or Monastery

A residence or facility used by nuns or priests, religious sisters or brothers for religious purposes with community facilities such as a dining room, lounges or rooms for worship and meeting.

Nursing Home

A residential facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to no more than nine residents.

PUBLIC AND INSTITUTIONAL USES

COMMUNITY AND CULTURAL FACILITIES

This use category includes buildings, structures, or facilities owned, operated, or occupied by a governmental entity or nonprofit organization to provide a service to the public. Specific use types include, but are not limited to:

Cemetery

A place used or intended to be used for the internment of human remains or pet animal remains and dedicated or designated for that purpose.

Community/Recreation Center

A place, structure, area, or other facility used for and providing fraternal, cultural, social, educational, or recreational programs or activities, open to the public or for private functions, operated by a public or nonprofit organization.

Essential Community Facility

A public use and/or facility whose primary function is to provide services for governmental, civic, recreational and other public purposes. Essential Community Facilities include, but are not limited to, recreation facility, government administration and civic building, schools, hospital, fire station, and police station. Essential Community Facilities are subject to the applicable Wright's Mesa Zone District standards set forth in Land Use Code Section 5-319 Wright's Mesa Zone Districts and must meet the General Standards and the Use-Specific standards for the proposed use in Section 5-319.

Fairground

An open area and facilities for holding fairs, rodeos, festivities, or exhibitions.

Government Administration and Civic Building

An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to: post offices, employment offices, libraries,

museums, public assistance offices, or motor vehicle licensing and registration services. Structures can also be used for the conducting of organized assembly and meeting, with membership not required for participation.

Social, Fraternal Lodge

Buildings and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

DAY CARE FACILITIES

This use category includes facilities that provide care for children on a regular basis away from their primary residence. Specific use types include, but are not limited to:

Day Care Center (defined in Article 6)

Day Care Home (defined in Article 6)

EDUCATIONAL FACILITIES

This use category includes public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care. Specific use types include, but are not limited to:

School (elementary or secondary)

An educational institution that satisfies the applicable educational laws of the State of Colorado for students in elementary or secondary grades.

Trade or Vocational School

A secondary or higher education facility primarily teaching usable skills that prepares students for jobs in a trade or in industry, construction, or commerce, and meeting all applicable state requirements for a facility of its type.

HEALTH CARE FACILITIES

This use category includes health care uses characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include, but are not limited to:

Clinic

An establishment primarily engaged in furnishing, on an outpatient basis, chiropractic, dental, medical, surgical, medical imaging, or other services to individuals, including the offices of chiropractors, physicians, dentists, and other health practitioners, medical and dental laboratories, outpatient care, and outpatient care facilities. Patients are not kept overnight except under emergency conditions.

Hospital (defined in Article 6)

PARK AND OPEN SPACE

This use category includes park and open space uses focused around natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include playgrounds, shade and picnic structures, maintenance facilities, concessions, and parking. Specific use types include, but are not limited to:

Athletic Fields and Courts

Land, often requiring equipment, designed for outdoor games and sports such as baseball, football, tennis, and soccer.

Community Garden

A public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

Open Space (“Common Open Space” “Active Open Space” and “Passive Open Space” defined in Article 6)

Park (defined in Article 6)

PUBLIC SAFETY FACILITY

This use category includes publicly owned safety and emergency stations, such as, but not limited to, fire stations, police stations, and emergency medical and ambulance services.

Fire and/or Rescue Station

A building used to house fire trucks and equipment and to dispatch fire personnel.

Police or Sheriff Station or Substation

A station that serves as a place to dispatch police or sheriffs, and to house equipment. The station may include temporary detention quarters.

RELIGIOUS ASSEMBLY

This use category includes uses providing meeting area for religious observances and activities. Accessory uses include religious school facilities, parking, caretaker’s quarters, and cemeteries.

TELECOMMUNICATIONS STRUCTURES

This use category includes telecommunications facilities to transmit analog or digital voice or communications information using electromagnetic signals via antennas, microwave dishes, and similar structures. Supporting equipment includes buildings, shelters, cabinets, towers, electrical equipment, parking areas, and other accessory development. Use types include towers/antenna and transmission towers. A telecommunications structure may include a tower, monopole, and other antenna support structure or equipment buildings. A telecommunications use and/or structure do not include non-commercial applications, such as amateur radio operations. Such use does not include those uses or structures that are accessory to and solely used by an individual business.

TRANSPORTATION FACILITY

This use category includes public facilities providing for transportation including bus stations, bus stops, or park-and-ride/bus interceptor lots.

Bus or Interceptor Lot

A parking area for automobile drivers who then board vehicles, shuttles, or carpools to commute to other locations.

UTILITY/ENERGY PRODUCTION

This use category includes oil and gas facilities and public utility service centers and also major utilities, which are infrastructure services providing regional or community-wide service, and minor utilities, which are infrastructure services that need to be located in or near the neighborhood where the service is provided. Services may be publicly or privately provided. Accessory uses may include control, monitoring, data, or transmission equipment.

Public Utility Service Center and Storage Yard

A facility owned by a public utility company that may include business offices, a dispatching center, and fenced yard for the storage of vehicles and materials related to the maintenance, construction, and repair of a utility transmission line, substation service line and other such facilities. Such service and storage yard may include shop facilities for the serving and repair of equipment. Similar facilities owned by a public agency or private road company for maintenance of roads and interchanges are included in this definition.

Renewable Energy Facility (solar, wind)

A facility designed to produce energy, through, either: (a) A series of solar photovoltaic cells in panels used to convert sunlight into electricity (often integrated with agriculture), or (b) A group of wind turbines in the same location used for production of electric power. Individual turbines are interconnected with a medium voltage (usually 34.5 kV) power collection system and communications network or (c) A Wind Energy Conversion System (WEC) to generate power.

Utility, Major

A utility installation generally having moderate to high impact on neighboring properties which may be of a regional nature. The utility normally entails the construction of new buildings or structures and typically has employees on the site on an on-going basis. Examples include, but are not limited to: water or sewer treatment plants, reservoirs, power or heating plants, electrical substations, water towers, or steam generating plants.

Utility, Minor

A utility installation generally having low impact on neighboring that is necessary to support development within the immediate vicinity and that involves only minor structures or underground infrastructure. Employees typically are not located at the site on an on-going basis. Examples include, but are not limited to: irrigation ditches, electric transformer stations, gas regulation structures, water/fire hydrants, telephone exchange buildings, well, water and sewer pumping stations, and similar installations.

COMMERCIAL USES

CONFERENCE AND TRAINING CENTERS

This use category includes structures for conferences and training which may include accommodations for sleeping, eating and recreation.

Conference and Training Center

Facilities used for business or professional conferences, seminars, and training programs, which may include accommodations for sleeping, eating and recreation.

Rural Resort or Retreat

A private establishment consisting of a detached structure or structures located in a rural setting with lodging units along with conference and meeting facilities, restaurant and banquet facilities, and rural recreational amenities.

FOOD AND BEVERAGE SERVICES

Food and beverage service businesses serve prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking. Specific use types include, but are not limited to:

Restaurant or Bakery

An eating/drinking establishment in which the principal business is the preparation and sale of foods or beverages to the customer in a ready-to-consume state. Operations may or may not include outdoor seating areas or outdoor food service.

OFFICE AND BUSINESS PROFESSIONAL USES

This use category provides executive, management, administrative, personal, or professional services, but not involving the sale of merchandise except as incidental to a permitted use. Typical examples include real estate, insurance, property management, investment and finance, employment, treatment or care, travel, dentists, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices.

Bank or Financial Institution

A financial institution for financial services, providing retail banking services, mortgage lending, and similar financial services to individuals and businesses, including those institutions engaged in the on-site circulation of cash money and check-cashing facilities. The use category does not include bail bond brokers. Accessory uses may include automatic teller machines, offices, and parking.

Office (defined in Article 6)

Personal Services

Establishments that provide individual services related to personal needs to customers at the site of the business, or that receives goods from or returns goods to the customer, which have been treated or processed at that location or another location. An establishment, whether for consideration or not, that provides care, advice, aid, maintenance, repair, treatment, or assistance, not including the practice of a profession and the wholesale or retail sale of goods. Examples include, but are not limited to, shoe

repair, beauty and barber shops, massage therapy, tanning salons, and dry cleaning pick-up and drop-off shops that do not conduct cleaning on the premises.

RECREATION AND ENTERTAINMENT (INDOOR)

This use category includes structures that provide recreation or entertainment activities within an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:

Movie Theatre

An indoor theater for the showing of motion pictures.

RECREATION AND ENTERTAINMENT (OUTDOOR)

This use category includes facilities that provide recreation or entertainment activities outside of an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:

General Outdoor Recreation, Commercial

The type includes intensely developed recreational uses such as amusement parks, miniature golf courses, commercial tennis courts, batting cages, skateboard or skate parks or courses, bicycle motocross courses, water parks or slides, drive-in movie theaters, and archery facilities.

Golf Course or Driving Range

A tract of land laid out with a course for the playing of golf, including any accessory clubhouse, driving range, offices, restaurant, concession stand, picnic tables, pro shop, maintenance facilities, or similar accessory uses or structures.

Rural Recreational Establishment, Outdoor

Any establishment operated as a commercial enterprise in which seasonal facilities directly related to outdoor recreation are provided for all or any of the following: picnicking, fishing, swimming, outdoor games and sports, shooting and archery range, animal-mounted trail riding, and similar activities. Nothing in this definition shall be construed to mean a track for motorized vehicles of any type.

RETAIL SALES

This use category includes retail sales firms that are involved in the sale, lease, or rent of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale. Specific use types include, but are not limited to:

Greenhouse or Nursery with Retail

Land or greenhouses used to raise flowers, shrubs, trees, and plants for sale.

Grocery Store (Supermarket)

A retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

Retail, General (Indoor)

A commercial enterprise that provides goods directly to the consumer, where such goods

are available for immediate purchase and removal from the premises by the consumer. Examples include, but are not limited to, apparel shops, antique shops, appliance sales, hardware stores, auto parts stores, bait shops, bakeries, bookstores, convenience stores without gas pumps, department stores, print shops, florists, and souvenir shops. This use does not include commercial greenhouses, grocery stores, or liquor stores and does not entail outdoor sales, service, delivery display, storage, or other activity.

Retail, General (Outdoor)

A commercial enterprise that provides goods directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the consumer. Outdoor retail establishments entail some outdoor sales, service, delivery, display, storage, or other activity, including but not limited to monument sales or hot tubs. This category does not include vehicle and equipment sales.

VEHICLES AND EQUIPMENT

This use category includes a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices. Specific use types include, but are not limited to:

Car Wash

A facility used to clean the exterior and, in some cases, the interior of vehicles.

Gasoline Station (defined in Article 6)

Recreational Vehicle (RV) Storage and Service

An establishment used for the storage of Recreational Vehicles (RV's) and their service that includes outdoor areas to store RV's for extended periods of time.

Vehicle Sales and Rental

An establishment engaged in the display, sale, leasing, or rental of new or used motor vehicles. Vehicles include, but are not limited to, automobiles, light trucks, vans, trailers, recreational vehicles, motorcycles or scooters, personal watercraft, utility trailers, all-terrain vehicles, and mobile homes.

Vehicle Service and Repair and Parts Sales

An establishment engaged in the repair and maintenance of motor vehicles.

VISITOR ACCOMMODATIONS

This use category includes for-profit facilities where lodging, meals, and the like are provided to transient visitors and guests for a defined period. Specific use types include, but are not limited to:

Bed and Breakfast (defined in Article 6)

Campground or RV Park

Any plot or parcel of real estate upon which two or more recreational vehicle or campsites are located, established, maintained, or occupied for dwelling or sleeping purposes for the general public as temporary living quarters for recreation or vacation purposes regardless of whether a charge is made for such accommodation.

Campground Semi-Primitive

A Semi-Primitive Campground is a campground accessible only by foot, horseback, or motorized trail vehicles. Facilities or improvements are limited and designed for protection of the site and not for the comfort of the minimal number of campers in the limited use area. RV or trailer camping is not allowed in a Semi-Primitive Campground.

Hotel or Motel

A building or group of buildings containing six or more sleeping rooms that are occupied or intended or designed to be occupied as temporary accommodations for persons who are lodged with or without meals, for compensation.

Lodge (Hunting or Guest Ranch) (defined as “Hunting Lodge” and “Guest Ranch” in Article 6)**INDUSTRIAL USES****GENERAL INDUSTRIAL SERVICE**

This use category includes industrial service firms that are engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products or by-products. Typically, few customers come to the site and contractors perform services off-site. Accessory activities may include sales, offices, parking, and storage. There are minor and major use types within this category:

Minor

An establishment for the sale of materials, hardware, and lumber customarily used in the construction of buildings and other structures, including facilities for storage. Operations are indoors only.

Major

This type applies to industrial service establishments that generally have high impacts on neighboring properties and that are not listed within one of the other use types. Examples include but are not limited to: construction materials storage; welding shops; machine shops; electric motor repair; repair, storage, salvage, or wrecking of heavy machinery; and heavy truck servicing and repair and maintenance and repair services for buildings. Operations may be indoor or outdoor.

RESOURCE EXTRACTION

The development or extraction or processing of a rock, mineral, or timer product.

Logging Operation

The work of cutting down trees for timber to transport to a mill.

Mining (defined in Article 6)

Oil and gas facility, minor and major (defined in Minor and Major Facilities in Section 5-26)

MANUFACTURING AND PRODUCTION

This use category includes firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such activity is subordinate. Accessory activities may include retail sales, offices, employee facilities, storage yards, repair facilities, truck fleets, and caretaker's quarters. Specific use types include, but are not limited to:

Manufacturing, Heavy

An establishment engaged in the manufacture or compounding process of raw materials that is likely to have moderate to heavy impacts on surrounding properties. Such activities may include the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Examples include, but are not limited to: refining or initial processing of raw material; rolling, drawing, or extruding of metals; asphalt batch plants; meat slaughtering or packing house; and manufacture or packaging of cement products, feed, fertilizer, flour, glue, paint, petroleum products, soap, charcoal, or distilled products.

Manufacturing, Light

An establishment that is likely to have light impacts on surrounding properties where assembly and manufacturing activities take place in enclosed buildings. Such an establishment is engaged in the assembly and manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. Examples include, but are not limited to: door or cabinet manufacturing shops; bottling works; machine or blacksmith shops; metalworking or welding shops; paint shops; and printing and publishing shops.

Shop-Craft Business or Industry (defined in Article 6)

WAREHOUSE AND STORAGE

This use category applies to companies engaged in the storage or movement of goods for themselves or others. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. Little on-site sales activity occurs with a customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas. Specific use types include, but are not limited to:

Mini-Storage

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares.

Storage or Hauling Company

Any lot or portion of a lot that is used for the sole purposes of the outdoor storage of fully operable motor vehicles, construction equipment, construction materials, or other tangible materials and equipment.

Warehouse

A structure containing an area available for the purpose of storing raw materials, goods, or property.

WASTE AND SALVAGE

Waste and Salvage firms receive solid or liquid wastes from others for disposal on the site or for transfer to another location. The category includes uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Waste and Salvage uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products. Specific use types include, but are not limited to:

Material Recovery Facility (MRF)

A solid waste management facility which collects mixed solid wastes and manually or mechanically separates recyclable materials to be marketed and disposes of all non-recyclable wastes to a permitted facility, or a solid waste management facility for the collection, recovery and processing of materials, such as metals, paper or glass, from solid waste for the production of a fuel from solid waste, including a solid waste transfer station.

Salvage, Junk Yard

A parcel used for storage of non-operable vehicles (autos, Commercial equipment, RV's, etc.) or scrap materials (steel, lumber, miscellaneous materials, etc.). A salvage yard must be completely fenced with all accesses secured from the public.

ACCESSORY USES AND STRUCTURES

Accessory Dwelling Unit ("Accessory Use/Structure" and "Accessory Dwelling Unit" defined in Article 6).

Alley House, Dwelling

A separate dwelling unit located on a lot which includes a single family dwelling unit or double wide manufactured/mobile home. The Alley House is accessory to the primary residential use on the property.

Caretaker or Guard Residence

Dwelling facilities located on a premise occupied by a permitted main use for the housing of persons and their families who are employed on the premises as guards, caretakers, or in similar custodial capacity.

Heliport

A landing facility for rotary wing aircraft used for public purposed only, where the heliport is an accessory use on the property.

Home Occupation (accessory to single family dwelling) (defined in Article 6)

Solar Energy Collector

Solar panels used to power a farm, home or business.

Stable (accessory use)

A stable in which horses or other beasts of burden owned by the occupant of the premises are kept for the occupant's private use as an accessory structure or use, and in which no animals are kept for hire, remuneration, or sale.

Wind-powered Energy Generator

A Wind Energy Conversion System (WEC) to generate power rated 100 kW or less, which is generally smaller than 120 feet tall and typically used to power a farm or ranch, home, business, or on-site use.

TEMPORARY USES

Asphalt/Concrete Batch Plant (Temporary)

A temporary facility for producing asphalt or concrete products used in construction activities on the same or nearby sites.

Building Material Yard/Construction Office (Temporary)

A yard or building for storing or housing building material and building equipment in conjunction with an approved construction or development project on a temporary basis.

Construction Staging Area/Stockpiling of Dirt (Temporary)

A storage location for bulk materials, tools, and vehicles for construction and/or storage of dirt for use in construction or as excess from construction activities conducted off-site. The acceptance, collection, accumulation or aggregation of dirt, fill, or gravel from off-site sources, for a period of less than 12 months on a parcel. Such stockpiles are removed or immediately graded out in accordance with an approved grading plan.

Field Office (Temporary)

A structure or shelter used in connection with an approved development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment.

Sales Office (Temporary)

A mobile office trailer used while model homes are being constructed.

ADDITIONAL TERMS

Full-Cutoff

A fixture that conforms to the International Dark Sky Association criteria for full-cutoff fixtures; that is, no significant amount of the fixture's total output may be emitted above a vertical cutoff angle of 90 degrees. Any structural part of the fixture providing this cutoff angle must be permanently affixed.

Gross Floor Area (GFA)

The area within the perimeter of the outside walls of a building as measured from the inside surface of the exterior walls, with no deduction for hallways, stairs, closets, thickness of walls, columns, or other interior features.

Heavy Equipment

A vehicle, truck, or machinery used for earth moving, construction, and hauling that weighs 8,000 pounds or more and that has two or more axles.

Motor Vehicle

A vehicle that weighs up to 8,000 pounds.

Norwood Master Plan Boundary or Urban Growth Boundary

The Master Plan Boundary for Norwood illustrated on the Wright's Mesa Master Plan and identifying an area surrounding the Town of Norwood within which the town anticipates town level growth that distinguishes these lands from Wright's Mesa rural lands.

Off-site

Describing a location or an area of land which is proximate to a parcel of land defined as "on-site". Off-site means not on-site; that is, outside the lot or parcel that is the subject of a given land use application.

On-site

"On-site" shall be construed to be describing a location on all, or a portion, of a parcel of land which is the subject of an application review, and which parcel of land is in single ownership or under unified control. In general, "on-site" shall mean within a lot or parcel.

Outdoor Storage

The holding or storage, in an unroofed area, of any goods, junk, materials, merchandise, or vehicles in the same place for more than twenty-four (24) hours. All outdoor storage shall be required to be enclosed by a fence, wall, landscaped berm, or other suitable and appropriate method.

Outdoor Storage, Accessory

The holding or storage of merchandise, goods, equipment or materials as an accessory use, wherein the outdoor storage area does not exceed 10% of the gross floor area of the primary use. All outdoor storage shall be required to be enclosed by a fence, wall, landscaped berm, or other suitable and appropriate method.

Outdoor Storage, Construction Materials

The holding or storage of materials utilized in off-site construction, to include machinery, tools or construction equipment and/or supplies including, but not limited to, lumber, prefabricated structural elements, forms, jigs, or other articles utilized in the fabrication of structural elements, structural steel, steel wire rods, concrete beams, or other materials utilized in construction.

Outdoor Storage, Vehicles

The holding or storage of new or used automobiles, trucks, buses, snowmobiles, motorcycles, all terrain vehicles, boats, light aircraft, mobile homes, trailers, farm machinery, major recreational equipment, or construction machinery or equipment. The storage of inoperable equipment shall be deemed to be a motor vehicle storage and impoundment yard.

5-320 West End (WE)

5-320 A. Purpose

The West End (WE) Zone District is intended to preserve large, relatively remote areas of western San Miguel County for resource, agricultural, open space, and recreational purposes, while protecting private property rights. These areas currently have minimum public facilities and services and are considered premature for substantial development. Development activities in these areas shall be encouraged to preserve historical, archeological and natural resources and landmarks, while allowing individuals the right to farm and ranch, using the necessary resources desired and needed with as little intrusion as possible on property rights.

Development Permits are not required in the WE Zone District except for Oil and Gas Exploration and Development. Based on historic lack of growth in the West End and the flexibility inherent in the WE District, this Zone District shall be reviewed every 5 years.

5-320 B. Uses Allowed by Right

- I. Agriculture, ranching and related uses, operations and activities, including but not limited to:
 - a. elevators and feed grain storage and mixing operations;
 - b. storage and sale of motorized and non-motorized farm and ranching equipment and structures other than dwelling units;
 - c. animal training and boarding facilities;
 - d. livestock or equipment auction yards and facilities;
 - e. truck and sod farms, nursery stock and green houses;
 - f. milk and dairy product processing;
 - g. owner operated poultry hatcheries and production facilities, fish hatcheries, specialty domestic animal production farms, dairy farms, fur farms, bee-keeping operations;
 - h. feedlots (livestock owned by operator); and
 - i. commercial feed lots (livestock owned by other parties) existing at the time of adoption of this zoning amendment, and expansion of existing operations within existing property boundaries;

- II. Single-family detached dwellings including mobile homes and homes abandoned prior to adoption of the West End Zone District and utility, water, and sewer systems where an abandoned home or mobile home existed, provided such homes meet applicable state standards;
- III. Group home with no more than eight (8) persons and not located within 750 feet of another such group home;
- IV. Timber production and farming including raising of trees for any purpose, and timber harvesting operations;
- V. Mining of sand and gravel or other minerals for personal (non-commercial) use;
- VI. Multi-family residential, office, commercial, industrial, and associated accessory uses existing at the time of adoption of the WE Zone District;
- VII. Veterinary clinics, hospitals, small animal kennels, and large animal holding facilities for medical purposes;
- VIII. Accessory Uses (accessory to uses by right):
 - a. personal ham radio and/or television tower and satellite TV dishes;
 - b. living quarters for up to 20 farm and ranch workers (on the farm or ranch where they are employed), or family members of any configuration or size supported by adequate water and sewage disposal in accordance with Section 5-320 K;
 - c. farm and/or ranch related commercial offices;
 - d. garages, parking and other equipment storage and supply buildings for use in all agricultural and related uses, operations and activities;
 - e. roadside stands for sale of locally grown vegetables, fruit and farm products;
 - f. farm and ranch buildings, storage sheds, and silos for storage and protection of farm and ranch products and livestock;
 - g. petroleum, fertilizer and chemical storage for personal (non-commercial) use;
 - h. Home Occupations and offices associated with Home Occupations (as defined in Article 6);

- i. storage of equipment, supplies and vehicles related to home occupations; and
 - j. outhouses, with County Environmental Health Department approval;
- IX. Bed and breakfast (with up to 10 guest bedrooms);
- X. Day care homes;
- XI. Hunting Lodges;
- XII. Non-commercial indoor/outdoor shooting ranges and courses;
- XIII. Non-commercial golf courses;
- XIV. Private cemeteries;
- XV. Private airstrips existing as of Dec. 31, 1998;
- XVI. Restoration or reconstruction of any building damaged by fire or other natural disasters;
- XVII. Auto Repair Shops; and
- XVIII. Equestrian activities and private riding stables.

5-320 C. Uses Allowed Subject to Administrative Review

- I. Open Land Protection Subdivision Exemption for four or fewer lots (see Section 5-1207), and
- II. Minor Oil and Gas exploration, drilling and pipelines, including wells, and geophysical operations (refer to Section 5-26).

5-320 D. Uses Allowed Subject to One-step Planning Commission Special Use Permit Review (see Section 5-320 K.)

- I. Public recreation facilities;
- II. Churches, civic facilities, public emergency service facilities;
- III. Campgrounds and recreational vehicle (RV) parks;
- IV. Expansion of or new commercial mineral resource development and extraction operations and facilities;
- V. Public indoor/outdoor shooting ranges and courses;

- VI. Junk, scrap metal, auto wrecking, storage and salvage yards;
- VII. Auto sales;
- VIII. Construction contractors;
- IX. Commercial laundries, dry cleaning plants and self-service laundries;
- X. Appliance and equipment rental;
- XI. Automobile washing facilities;
- XII. Electrical and plumbing service shops;
- XII. Commercial storage units;
- XIV. Private airstrips constructed after Dec. 31, 1998; and
- XV. Guest Ranches.

5-320 E. Uses Allowed Subject to One-Step Board of County Commissioner Review

- I. Open Land Protection Subdivision Exemption for five or more lots (see Section 5-1207); and
- II. Subdivision Exemption for the West End to create 5 or fewer parcels of at least 3 acres each (see Section 5-1211).

5-320 F. Uses Allowed Subject to Two-Step Planning Commission and Board of Commissioners Special Use Permit Review (see Section 5-320 K.)

- I. Schools;
- II. Commercial golf courses;
- III. Utility service facilities such as utility lines and service centers;
- IV. Commercial feedlot operations, poultry hatcheries and production facilities, fish hatcheries, specialty domestic animal production farms, dairy farms, fur farms that are operated by someone other than the landowner;
- V. Cemeteries and crematoriums;
- VI. Solid waste sites or landfills;
- VII. Water and sewer treatment and storage facilities;

- VIII. Vehicular and animal race tracks;
- IX. Mobile home parks;
- X. Group homes for persons not covered pursuant to 30-28-115 C.R.S.;
- XI. New commercial operations such as retail food service, general stores;
- XII. New industrial operations;
- XIII. Gasoline stations and commercial gasoline storage facilities (which must meet all applicable State regulations); and
- XIV. Hotels and motels (excluding bed and breakfasts, guest ranches and hunting lodges).
- XV. Major Oil and Gas Facilities, including compressor stations, gas treatment facilities and pipelines (Section 5-320 K. does not apply, refer to Section 5-26).

5-320 G. Area and Bulk Requirements

I. Minimum Parcel Size

The minimum parcel size for a single-family residence is 3 acres. Two principal uses are allowed per parcel, including legally created parcels less than 3 acres created prior to the adoption of this section.

II. Setbacks

Front yard – 15 feet

Rear yard – 10 feet

Side yard – 10 feet

III. Maximum Height of Buildings - 35 feet (Agricultural Buildings are exempt from any height limit)

5-320 H. Minimum Off-street Parking

Off-street parking shall be provided for each approved use as required in Section 5-702.

5-320 I. Cemetery and Radio and Microwave Transmitting Station Standards

In addition to complying with the standards for special uses in Sections 5-320 K. and 5-10, cemeteries and radio and microwave transmitting stations shall comply

with the standards in this section.

- I. Such uses shall serve an obvious public need;
- II. Sufficient distance shall separate such uses from incompatible uses on adjacent properties; and
- III. Satisfactory proof shall be obtained that such areas will be properly maintained.

5-320 J. General Development Guidelines for all uses

- I. All uses must conform to the state health and sanitation requirements regarding potable water supply and sewage disposal;
- II. Before issuing a special use permit for any land use change adjoining or affecting agricultural lands, assurance must be established that adequate provisions are included that minimize or eliminate impacts on agricultural lands, including compliance with the following guidelines:
 - a. Fences shall be constructed to separate development from adjoining agricultural lands or stock drives. Both new and existing fences shall be properly maintained and repaired. Notification of the lot owner's duty to maintain such fences shall be provided on subdivision plats;
 - b. Where irrigation ditches cross or adjoin land proposed to be developed, adequate provisions shall be made to insure that the use of such ditches, including the maintenance thereof, can continue uninterruptedly; and
 - c. Existing historical easements utilized to gain access to ditches, head gates and fences for maintenance or operational purposes shall be preserved or replaced with alternate easements suitable for a continuation of the historic use.
- III. In addition, local landowners recognize that the cooperative existence between landowners and wildlife is a way of life. To assure the preservation of both farmers/ranchers and wildlife, the Colorado Parks and Wildlife is encouraged to maintain reasonable herd populations.

5-320 K. Review Standards for all WE Zone District Special Uses

All special uses shall:

- I. Be consistent with the County Master Plan, the County Land Use Policies in Article 2 and the purpose of the WE Zone District;

- II. Be consistent with and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses, and/or shall enhance the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development;
- III. Be designed, located and operated so that the public health, safety and welfare will be protected;
- IV. Be located, designed and operated to minimize adverse effects, including impacts on scenic quality, pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibration and odor on surrounding properties;
- V. Provide adequate public facilities and services to serve the special use, including but not limited to roads, adequate water supply in terms of both quality and quantity, sewer, solid waste and fire protection;
- VI. Not substantially adversely affect agriculture or ranching operations and residences;
- VII. Only include roads, utilities and associated structures that bear logical relationships to existing topography and minimize cuts and fills; and
- VIII. Be consistent with the historic rural and agricultural character of the West End. Input from neighbors shall be considered by the County in determining consistency.

5-321 High Country Area (HCA)

5-321 A. Purpose

- I. The High Country Area (HCA) Zone District is intended to protect and preserve the alpine, sub-alpine and scenic hillsides in the upper San Miguel watershed for their historic and natural landscapes and retain the relatively undeveloped character of these backcountry areas. It is the intent of this Zone district to preserve historical structures and to protect the native flora and fauna. This Zone District is comprised of public lands managed by the United States Forest Service (USFS) and patented mining claims. Much of this Zone District was once mined and may again be mined. It is the intent of this Zone District to preserve and protect public lands from the impacts of incompatible development and to protect access to the minerals that are known to be or expected to be within this Zone District. Commercial and industrial uses are not permitted within the Zone District. The size, scale, and location of Single-family Dwellings and Accessory Structures are limited to avoid conflict with past and/or future mining. The County favors preservation and protection for open space, public recreation and watershed and source water protection over the use of these properties for any development purpose.
- II. These areas are typified by a lack of improved or maintained roads, little or no utilities or infrastructure and very limited or sparse development other than historic mining remnants from past mining activities. Development activities in these areas should be limited due to high elevation, environmentally sensitive and geologically hazardous areas, steep terrain, limited access, mining remnants, and other site constraints. If residential development occurs it should be limited to cabins and small scale residential development consistent with the type of development that historically occurred in the area. Development that results in a demand for public services beyond what is currently provided should be prohibited.
- III. It is the intent of this Zone District to prohibit both public or private improvements on existing public roads and to prohibit the construction of new roads within the HCA Zone District as a means of maintaining the areas existing character and as a means of preserving historic access methods. Existing private roads within the HCA Zone District are considered to be pre-existing driveways. Driveways may be constructed or improved to access property within this Zone District. However, property owners are not required to improve driveways accessing their property in this Zone District to the driveway standards that are required throughout the remainder of the County. Rather, the intent of this Zone District is to minimize the number of driveways and the impacts driveways may have on the scenic and environmental character of the HCA Zone District.

5-321 B. Review of Allowed Uses

At a minimum, any Allowed Use is subject to an Administrative Review. The purpose of the County Planning Department Administrative Review is to provide staff an opportunity to work with the owner or developer to consolidate and minimize the impacts associated with the development of dwellings, driveways or improvements, to ensure that the proposed development is consistent with the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan and to avoid hazards from past mining or conflicts with potential future mining. As a part of an Administrative Review the Planning Director shall consider all relevant information and /or analysis provided by Referral Agencies concerning the potential impacts of the development proposal and may require the applicant to comply with any and all review comments deemed necessary to mitigate impacts and secure the objectives of the HCA Zone District.

5-321 C. Administrative and Land Use Approvals

I. All applications for Administrative Review or land use approvals shall include, at a minimum, the information and materials specified in Land Use Code Section 4-2 and/or as follows:

- a. If the certificate of title indicates that the mineral estate and surface estate have been severed; the applicant shall, as a part of the applicant's submittal for Administrative Review, send written notice of an application for approval of a development proposal to the owners of record of the severed mineral estate consistent with LUC Section 3-903.
- b. Written notice of an application for Administrative Review shall be sent to the owners of properties located adjacent to the property subject to the application and notice of the application shall be posted in a conspicuous place on the subject property.
- c. The mailing of the written notice and posting of the property shall be made by the applicant, within five (5) days of submitting the application. The notice shall inform the owners of severed mineral estates and/or adjacent property owners that they have thirty (30) days from the time the notice is postmarked to notify the Planning Director in writing of any issue or objection to the proposed development.

II. Referral Agencies

The application shall be referred to the State of Colorado's Division of Minerals and Geology and the State Water Quality Control Division and will be referred to the Towns of Telluride, Mountain Village or Ophir or

the County Historical Commission, the Telluride Fire District, or other referral agencies, as deemed appropriate by the Planning Department staff to determine compliance with the Land Use Code.

III. The following must be addressed as part of any application:

A site plan including:

- a. The location of all existing and proposed improvements on the property including the access to the property and driveway, if any;
- b. The size, height, number of stories and basic design of the structure(s) and including the type of materials to be used in construction;
- c. Information regarding all existing or proposed utilities or services that may or will serve the property, including the type and layout of the water supply and sewage treatment system;
- d. The location of any and all existing mines, mine remnants, mine adits or mine waste located on the property to be developed;
- e. The location of any and all historic buildings or structures or cultural resources located on the property to be developed.
- f. Identification of Areas of State and Local Interest (1041 Environmental Hazard) as set forth in Section 5-4 and Wetland Areas as set forth in Section 5-22 and Watershed Protection Areas as set forth in Section 5-25, for all areas where development activity is proposed;
- g. The location of existing roads and Trails on the property to be developed.

IV. Scenic Quality Report

An applicant shall submit a site plan and Scenic Quality Report showing how the siting, design, materials and construction of any and all structures including the driveway will minimize the visual impact of the development on the scenic quality of the HCA Zone District, the Towns of Telluride, Mountain Village and Ophir, the Ski Area, mountain passes, major historic roads, public use areas and neighboring properties.

V. The owner of a patented mining claim must submit a Mining Resource Report that addresses the following:

- a. Demonstrate compliance with all applicable state and federal requirements, if any, for reclamation, stabilization, bonding, storm water drainage and any other requirements that are deemed necessary by the State of Colorado's Division of Minerals and Geology and/or Water Quality Control Division to protect the public health, safety and welfare of the owner, occupants and neighbors of the property where the development is to occur.
- b. Provide a written report, stamped and sealed by a qualified Colorado registered professional engineer, knowledgeable of mining and mining hazards, identifying any and all surface or sub-surface mining related hazards on the entire claim where the development is proposed. If mining related hazards are identified, the engineer's report shall include recommended measures to adequately mitigate such surface or sub-surface mining related hazards.

VI. Liability and Disclosure

The owner shall execute a release of liability prepared by the County waiving any and all claims against the County for issuing a building permit on a mining claim that has been mined in the past and may be mined in the future. The release of liability and disclosure, to be executed by the owner, shall also acknowledge that there is no guarantee of fire response or emergency services to properties in the High Country Zone District.

VII. Merger of Surface and Mineral Estates

Where the applicant is the owner of both the surface and mineral estate on the property on which the development is proposed, as a condition of Administrative Review and a Development Permit, the owner shall execute a "merger covenant," or deed restriction prepared by the County to be recorded in the chain of title for the property, that provides for the merger of the surface and mineral estate in perpetuity so these estates cannot be severed into separate estates by the current owner, and/or his heirs, successors or assigns.

5-321 D. Standards for all Administrative Reviews and All Special Uses Requiring One-Step and Two-step Review

I. All uses shall be:

- a. Consistent with the Goals and Objectives of the Telluride/Ophir High Country Area Sections of the Master Plan.

- b. Consistent with the County Land Use Policies in Article 2.
- c. Consistent with the purpose of the HCA Zone District.
- d. Located, designed and operated to minimize visual impacts so as not to detract from the scenic quality of the HCA Zone District, the Towns of Telluride, Mountain Village and Ophir, the Ski Area and public use areas.
- e. In compliance with Section 5-4 Areas and Activities of Local and State Interest/“1041” Environmental Hazard Review including the Section 5-407A. General Standards for Wildlife Habitat Areas, Section 5-2203 Development in Wetland Areas, and Section 5-25 Watershed Protection Areas. If a conflict exists between the requirements of the above referenced Land Use Code provisions and the standards of the HCA Zone District, the most restrictive provisions shall apply.
- f. Located and proposed to avoid hazards from past mining or conflicts with potential future mining and include those measures recommended in the Mining Resources Report necessary to adequately mitigate surface or sub-surface mining related hazards.
- g. Compatible with and minimize adverse impacts on the surrounding area.
- h. Designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

II. All Uses are subject to the following Standards:

- a. Outdoor lighting shall be limited to the minimum required to comply with the applicable provisions of the Uniform Building Code and National Electric Code. All required exterior lighting shall be fully shielded and directed toward either the ground or the surface of the building to prevent direct visibility off-site. High intensity sodium vapor, mercury vapor, and similar lighting is prohibited.
- b. All areas of surface disturbance, excluding the travel surface of driveways, shall be re-vegetated with species native to the site and/or surrounding area. Removed topsoil shall be replaced and only species native to the site and/or surrounding area may be planted. The property owner shall control and remove all noxious and invasive plant species on the property or introduced as a result of development in accordance with the Colorado Noxious Weed

Management Act. The property owner shall also control and remove all plant species on the site that are not native to the HCA.

- c. Fuel tanks, water storage units and generators shall be located within a permitted structure or placed underground. If generators or similar devices are to be used sound levels of generator noise radiating from a property line at a distance of twenty-five feet or more shall not exceed 50 dba.
- d. Demolition of national, state or locally certified County Historic Landmarks is prohibited.

5-321 E. Uses Allowed Subject to Administrative Review

- I. Single-family residential dwellings with less than 1,000 square feet of Floor Area.
 - a. An additional 500 square feet of Floor Area may be allowed for each Development Right retired in perpetuity on a developable parcel(s) within the HCA Zone District. A developable parcel is a property capable of meeting all applicable provisions of the Land Use Code necessary to obtain a Development Permit for a Single-family dwelling.
 - b. An additional 500 square feet of Floor Area may be allowed where the owner is proposing measures that preserve or enhance public recreation opportunities and/or provides an easement for public non-motorized access through their property consistent with the County Trails Master Plan.
 - c. An additional 500 square feet of Floor Area may be allowed where the owner does not construct a driveway to serve the property. This provision does not prohibit use of a temporary driveway during construction, if the use is discontinued, the driveway is restored to its natural condition, and the property is restricted in perpetuity against construction of any future driveway.
 - d. An additional 300 square feet may be allowed for an attached garage within or as a part of the single-family residential dwelling if there is no detached accessory structure. A garage as defined in Article 6, and as limited herein, is not included in the calculation of Floor Area
 - e. An additional 500 square feet may be allowed for a Basement within or as a part of the single-family residential dwelling, if the development is located and designed so that the residence would

not be visible, during summer months, from the towns of Telluride, Ophir and Mountain Village, or public roads, public trails and public use areas within the High Country Master Plan Area. If a Basement is proposed as a part of the development it is incumbent on the applicant to demonstrate this improvement can be made in a manner consistent with the HCA Master Plan and the land use standards for the HCA Zone District and Watershed Protection Areas. (such as, limiting site disturbance, avoiding or minimizing blasting, handling of excavated materials, surface drainage, etc.)

- f. In no circumstance shall a single-family residential dwelling, with a Floor Area larger than 2,500 square feet be allowed by Administrative Review.
- II. One detached Accessory Structure (shed) with 200 square feet of Floor Area or less if there is no attached garage. Where gasoline/diesel powered/electric generators are used they shall be placed in the garage, accessory shed or underground to minimize noise impacts.
- III. Electric Distribution Lines & Electric Service Lines.
Electric Distribution Lines are prohibited except under the following limited and specific circumstances:
- a. There is an existing Electric Distribution line located on the parcel or mining claim where a Single-family residence is proposed to be developed and the applicant has obtained Administrative or Special Use Approval for a specific Single-family residential development; and
 - b. The proposed Single-family residence is to be served by an alternative energy source(s), including but not limited to solar, photovoltaic, wind, hydropower or other alternatives, that provides a substantial amount, at least 50%, of the projected power usage for the single-family residence, the alternative energy source is tied to the electrical grid system by an Electric Distribution Line or Electric Service Line and there is an approved net-metering agreement with the providing utility company; and
 - c. The Electric Distribution Line or Electric Service Line shall be placed underground where it has been determined that such undergrounding would not have significant adverse environmental impacts. Above-ground Electric Distribution Lines are prohibited; and
 - d. The maximum allowed length of the proposed extension of the Electric Distribution Line shall not be greater than one-quarter mile in length from the existing utility service line to the proposed Single-family residence. If possible the buried Electric Distribution Line or Electric Service Line should be placed within or alongside an existing access

- road or the proposed driveway unless there is a more practical route that would result in less environmental impact to the property.
- e. Underground Electric Service Lines are allowed in the HCA Zone District subject to Administrative Review pursuant to LUC Section 5-321 B.
- f. Property Owners should realize that for most High Country Area properties solar, wind, hydropower, or other alternatives to the extension of an Electric Distribution Line or Electric Service Line might be the only electric service available.

IV. Development or improvement of driveways and recreational Trails.

- a. Driveways do not have to comply with the driveway standards contained in Land Use Code Section 5-502 DD. because these private driveways are not intended to provide emergency vehicle access to single-family residential dwellings. The standards for driveways in the HCA Zone District are identified in Land Use Code Section 5-321 N. II. Driveways.
- b. Trails do not have to comply with the standards contained in Land Use Code Section 5-506 Trails. The design standards for Trails in the HCA Zone District are to be determined by the Planning Department in consultation with the San Miguel Trail Council and shall be consistent with the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan.
- c. Helicopter Access may be allowed by Administrative Review for limited construction activities where it has been determined by clear and convincing evidence that the benefits of such access outweigh the detriments. Helicopter Access is not allowed under any other circumstances except for bona fide emergencies.

5-321 F. Uses Allowed Subject to One-step Planning Commission Review subject to Section 5-10

Public recreational structures and outdoor recreational areas, such as backcountry/ski shelters, picnic areas, educational centers, limited to 500 square feet. Such uses shall be consistent with the purpose and definition of Active Open Space in Article 6.

5-321 G. Uses Allowed Subject to One-step Board of County Commissioner Review subject to Section 5-10.

- I. Open Land Protection, subject to the standards in Section 5-1207 and the standards of the HCA Zone District.

- II. Driveways greater than one-quarter (1/4) mile and/or driveways with vehicle pullouts. A distance of one-quarter (1/4) mile was established based on a finding that the extension of further development decreases the integrity of the environment, and diminishes the historic and rural landscape.

In approving driveways greater than one-quarter (1/4) mile and/or driveways with pullouts, the Board of Commissioners shall consider visibility of the roads/driveways from all public roads in the High Country Master Plan Area, to include Tomboy Road, Imogene Pass, Black Bear Pass, Bear Creek Road, Liberty Bell Road, Boomerang Road, Gold King Basin Road, upper and lower Bridal Veil Roads, Blue Lake Road, Marshall Basin, Blix Road, Waterfall Canyon Road, Alta Lakes (east) and Ophir Pass, Lewis Mill, the Towns of Telluride, Mountain Village and Ophir, impact on recreational activities, and environmental impacts, including soil disturbance and erosion. Where access requires a driveway greater than one-quarter (1/4) mile in length alternative access should be considered (including, but not limited to, skiing, hiking, snowmobiling).

- III. Automobile parking areas that centralize parking adjacent to existing roadways in order to allow alternative access beyond that point.
- IV. Repair or restoration of damage to existing public roads, as a result of natural catastrophes or “acts of God”, that exceed routine Road Maintenance but do not constitute Road Improvements. In approving repair or restoration of existing public roads the Board of Commissioners shall consider if the proposed road repair adequately addresses public safety in a manner that does not change or alter the rough condition or historic character of the road. Board of County Commissioner review is not required for expedient repairs to provide for public safety in bona fide emergencies (such as the removal of material from rock slides) as determined by the San Miguel County Road Superintendent.
- V. Logging activities resulting in cutting down trees for use on-site and /or the hauling of up to 5,000 board feet of timber in any 12 month period beginning with the commencement of tree cutting. In approving logging activities the Board of Commissioners shall consider the availability of access from existing roads, the method of access, the potential impacts to public roads and any required mitigation thereto, and the visual impacts of such activities on the scenic quality of the property and the surrounding area. The BOCC may also consider whether the proposed activities are consistent with a forest management plan that is intended to promote forest health and reduce the risk of wildfire. It is not the intent of this section to allow commercial logging operations, or activities that encourage the construction of new roads or involve the use of heavy construction equipment in the HCA.

5-321 H. Uses Allowed Subject to Two-step Special Use Permit Review Subject to Section 5-10.

- I. Single-family residential dwellings with greater than 2,500 square feet of Floor Area or single-family residential dwellings and Accessory Structures that exceed the square footages that may be authorized by Administrative Review pursuant to Land Use Code Section 5-321 E. To authorize a larger Floor Area for a Single-family Dwelling or Accessory Structure, there must be a finding that the proposed development furthers the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan, shall include the retirement of additional Development Rights in a manner that results in less developed square footage than what may be authorized through an Administrative Review, is located so it does not create a visual impact or detract from the scenic quality of the basin or area in which it is located, and is in the public interest.
- II. Commencement and/or expansion of mining and mineral processing operation, or development of mining related structures or buildings, in accordance with all provisions of Section 5-10 and 5-16. This does not include sand and gravel mining or processing.
- III. Radio, microwave transmitting stations and other antennae subject to Section 5-307 K. and wind turbines for residential use over 25 feet in height.
- IV. Public utility structures, including dams, reservoirs and municipal water distribution systems (refer to Section 5-709.).

5-321 I. Area Bulk Requirements

- I. The minimum lot size for each principal use is 35 acres except for single-family residential dwellings approved pursuant to the subdivision exemption standards for Open Land Protection (see Section 5-1207).
- II. Any legally created parcel less than 35 acres in the HCA Zone District may qualify for a Building Permit for one single-family residential dwelling Unit, provided the parcel satisfies the criteria set forth in Section 5-1908 Sub-standard size parcels, except for the standards for driveways in Section 5-502 DD.

5-321 J. Minimum Setbacks

The preferred setbacks for all yards adjacent to Public Lands are 30 foot front and 20 foot side and rear. The minimum setback for all yards is 10 feet, except the 10 foot minimum setback may be further reduced by Administrative Review where the applicant has demonstrated there would be no negative impact to the adjoining

property. The intent of allowing a reduced setback is to provide maximum flexibility in siting the single-family residential dwelling and accessory structure to reduce visibility and impacts on scenic quality. The location of structures, setbacks and separation requirements for residences, mines, mine tailings, wells and septic systems, if any, will be determined during the site-specific review of the proposed development.

5-321 K. Maximum Height of Buildings

The maximum height of buildings is 20 feet for single-family residential dwelling and 16 feet for an attached Garage or 12 feet for a detached Accessory Structure: The ridge of a gable, hip, gambrel or similar pitched roof may extend up to five feet above the specified maximum height limitation. (see Height as defined in Article 6 of the LUC.)

5-321 L. Minimum Off-street Parking

All parking shall be provided on-site where vehicle access is available.

5-321 M. Water and Sewage Disposal

An adequate water supply (which may include a cistern or storage tank) and a sewage disposal system that minimizes site disturbance and complies with the State and County Sewage Disposal System requirements must be demonstrated. Depending on site conditions, the County Environmental Health Department may require an engineered system. Applicants are encouraged to meet with the Environmental Health Department to identify the type of sewage disposal system that may be best suited for the Development proposed and that minimizes site disturbance.

5-321 N. Development or Improvement of Roads, Driveways, and Recreational Trails

I. New Public Roads, Existing Private Roads, and Road Improvements

New public roads and Road Improvements to existing public roads are prohibited. This provision is not intended to prohibit Road Maintenance as defined in Article 6 of the Land Use Code. Existing private roads within the HCA Zone District are considered to be pre-existing driveways and may be improved and maintained in the same manner as driveways.

II. Driveways

New driveways shall have minimal visibility as may be viewed from the Towns of Telluride, Mountain Village or Ophir, the Ski Area and all public roads in the High Country Master Plan Area. Construction of new driveways shall be allowed only if there is no existing access determined

to be adequate by the County Road and Bridge Department or County Engineer. Landowners are required to obtain a County access permit to construct driveways off of County roads, however landowners are not required to construct driveways to County standards as required in Section 5-502 DD., except that:

- a. Driveways shall be no wider than 10 feet; but vehicle pullouts may be allowed where deemed necessary for public safety.
- b. Switchbacks and cuts and fills are minimized for roads and driveways to the fullest extent possible;
- c. Blasting shall be limited to the least extent reasonably necessary in the development of a driveway;
- d. Driveways are not limited to a specified grade. Owners are solely responsible for creating safe vehicular access to their property;
- e. Driveways may not be paved or improved with an impervious surface;
- f. Driveways greater than one-quarter (1/4) mile or driveways with vehicle pullouts must be approved subject to One-step Board of Commissioners Review; and
- g. Driveways may serve multiple Single-family Residences, if and where it has been determined by clear and convincing evidence that doing so would reduce the potential number of driveways and would minimize the overall aesthetic and environmental impacts consistent with goals and objectives of the Telluride/Ophir High Country Area Sections of Master Plan.

III. Public Trails/Recreational Access

- a. Public access to Trails from existing public roads, as identified in the adopted County Trails Master Plan or as identified during the administrative review process, should be maintained or enhanced to the maximum extent possible for both summer and winter use. The County shall work cooperatively with landowners in the HCA Zone District to ensure that through-access on such roads is maintained.
- b. Trails shall be kept in their historic alignments to the greatest extent possible. Road and driveway crossings of Trails shall be avoided wherever possible.

High Country Area Roads

Road	Status	Description	Comments
Alta Lakes	County Maintained	Boomerang Road east to Alta Lakes	Public
Bear Creek	Non-County Maintained	Telluride City Limits south 2.14 miles	Public
Blix Road	Non-County Maintained	Ophir Pass Road north to NE1/4, NW1/4, Section 18, 42N, 8W (La Junta Basin)	Probably public – needs research
Bridal Veil (lower)	County Maintained	Beginning .22 miles east of the Valley View Parking Area on CR K69 heading east to the intersection of Upper Bridal Veil Road & Black Bear Pass Road at Bridal Veil Falls	Public
Bridal Veil (upper)	Non-County Maintained	Black Bear Pass Rd. south to Blix Road	Probably public – needs research
Black Bear Pass	County Maintained	Bridal Veil Intersection to County line	Public
Blue Lake Road	Non-County Maintained	Upper Bridal veil Road southeast to Blue Lake	Probably public-needs research
Boomerang	County Maintained	Alta mine site north to Prospect Intersection	Public
Gold King Basin	Non-County Maintained	Alta Road southeast to NW1/4, NE ¼, Sec. 27, 42N, 9W	Public
Lewis Mill	Non-County Maintained	Upper Liberty Bell Road to Lewis Mill Site	Probably public -needs research
Liberty Bell	Non-County Maintained May be maintained by Town of Telluride to Water Plant	Tomboy Road north to SW1/4, NE1/4, Sec. 30, 43N, 8W	Probably public – needs research
Marshall Basin	Non-County Maintained	Tomboy Road northwest to NW1/4, SE1/4 Section 29, 43N, 8W	Probably public – needs research
Ophir Pass Road	County Maintained	Ophir City Limits east to County Line	Public
Tomboy Road	County Maintained	Telluride city limit east to County Line	Public
Waterfall Canyon	Non-County Maintained	Ophir City Limits south through National Forest land to private property	National Forest-Public

5-322 Low Density Residential (LDR)

5-322 A. Purpose

- I. The purpose of the Low Density Residential Zone is to provide areas suitable for clustered, low density residential development in accordance with the San Miguel County Comprehensive Plan and the PUDR Zone and to implement the “alternative density” provided for in the PUDR Zone District and the Telluride Regional Area Master Plan. Only property currently located in the Telluride Region and zoned PUDR may be classified in the Low Density Residential Zone.
- II. In planning for the development of land under the Low Density Residential Zone, clustering of residential uses and the establishment of building envelopes on lots to restrict areas of development to preserve environmentally or visually sensitive open space and wildlife habitat will be required. In addition, attention shall be given to visual vulnerability and/or the relationship of each parcel to essential public facilities and services and the use of the scenic foreground as open space. The density of residential development in the Low Density Residential Zone may vary from one unit per six to eight acres, depending upon an analysis of factors such as neighborhood compatibility, availability of urban services, road capacities, and consistency with the adopted goals and objectives of the Telluride Regional Area Master Plan.

5-322 B. Planned Unit Development (PUD) Procedure

All development proposed within the Low Density Residential Zone, except for proposed development of uses allowed by right, shall be reviewed pursuant to the Planned Unit Development (PUD) procedure to establish permitted uses and Area and Bulk Requirements. Refer to Section 3-7 for PUD procedures and Section 5-14 for PUD Standards.

5-322 C. Uses Allowed By Right

- I. Single-family dwelling on lots containing 35 acres or more, with a residence containing less than 12,000 sq. ft of Floor Area;
- II. Accessory Uses and Structures, including customary utility services;
- III. Active Open Space; and
- IV. Passive Open Space.

5-322 D. Allowable Uses Requiring Review through the Planned Unit Development (PUD) Procedure

- I. Single-family dwelling on lots containing less than 35 acres, with building sizes and heights as provided for in Section 5-322 F subject to review requirements provided for in Section 5-322 F;
- II. Accessory Uses and Structures, including customary utility services; not to include a second residential unit;
- III. Day care homes;
- IV. Active Open Space, except that the uses and activities that may occur on portions of the property designated as Active Open Space may be further expanded or restricted in the course of the review of the required PUD application; and
- V. Passive Open Space, except that the uses and activities that may occur on portions of the property designated as Passive Open Space may be further expanded or restricted in the course of the review of the required PUD application.

5-322 E. Area and Bulk Requirements for Used Permitted by Right

- I. Density – one dwelling unit per lot
- II. Minimum Lot Area – 35 acres
- III. Setbacks
 - a. Front Yard – 50 feet
 - b. Rear Yard – 50 feet
 - c. Side yard – 50 feet
- IV. Maximum Building Height – 35 feet

5-322 F. Area and Bulk Requirements For Uses Requiring Review Through the Planned Unit Development (PUD) Procedure

The maximum Area and Bulk Requirements for a lot in the Low Density Residential Zone shall comply with and not exceed the following standards, which shall be applied by the County in the course of its review of the PUD for the property to evaluate mass and scale, and other related design issues. During its review of the PUD application, the County may establish more restrictive design limitations relating to house size, building heights and/or setbacks associated with the proposed development if the County determines that such restrictions are reasonably necessary and appropriate to address mass and scale, and other related design issues identified during the PUD review process.

- I. Allowed House Size: The allowable size of a residence (“House Size”)

shall fall within a range of between 5,500 sq. ft and 7,000 sq. ft. of Floor Area, which shall be determined by a site specific review during consideration of the Preliminary PUD Plan for the property. The foregoing shall not preclude the construction of a residence that is less than 5,500 sq. ft if proposed by the lot owner. The maximum House Size shall be determined based upon the following criteria (“Review Criteria”):

- a. Analysis of the proposed location of the structure and the visual impact of the building when viewed from West Colorado Avenue and the Airport Road (CR64L), as applicable, based upon proposed size and scale of the structure and the proposed visual mitigation provided for in the Preliminary PUD Plan.
 - b. Analysis of the amount of the clearing, grading and the extent of the removal of trees and natural vegetation that may be required to construct a residence of the proposed size on the site, which is to be balanced against goals of mitigation of visual impacts.
 - c. Analysis and evaluation of the relationship of the proposed building size to property conditions that would be in place upon the completion of the construction of the structure, including factors relating to the sites topography, vegetation, distance from the public highway including Scenic Foreground setbacks, size of the lot and homesite, proposed building height, spacing of units, proximity of residences to surrounding uses, view angles, visibility, and similar considerations.
 - d. Consideration of siting and design criteria, including, without limitation, color/materials, lighting, architectural styles/themes and the like, that may be utilized to reduce or minimize the visual impact of the proposed structure on the scenic quality of the surrounding area.
- II. Minimum Lot Area: 2 acres, unless the lot is connected to a private or public community water system, in which the Minimum Lot Area is 1 acre.
- III. Maximum Density - one unit per six to eight acres
- IV. Setbacks: Improvements must be contained within the Building Envelopes established on the approved Preliminary PUD Plan for the property, provided that the Building Envelope will be setback at least 25 feet from the lot line.
- V. Maximum Building Height: The Allowed Building Height for a residence shall fall within a range of between 28 feet and 35 feet, unless a more stringent height restriction is imposed in order to comply with ridgeline regulations. The foregoing shall not preclude the construction of a

residence that is less than 28 feet if proposed by the lot owner. The Allowed Building Height shall be determined during the review of the Preliminary PUD Plan for the property utilizing the Review Criteria.

- VI. Restricted Open Space: For purposes of this Low Density Residential Zone, the term “Restricted Open Space” shall mean any Active Open Space or Passive Open Space included in the project being reviewed, which is restricted against development of structures or other improvements, other than areas required for infrastructure, including roads, utilities, driveways, OWS and similar facilities. The Restricted Open Space may be included in parcels owned by the project’s homeowners association, parcels dedicated to a public agency for open space purposes and/or the boundary of a platted lot, outside of the designated Building Envelop. Not less than 75% of the area being subdivided will be Restricted Open Space.

5-322 G. Minimum Off-street Parking

Off street parking shall be provided for each principal use as required in Section 5-702 of the San Miguel County Land Use Code.

5-322 H. Review Standards for Land Uses and Area and Bulk Requirements Requiring Review Through the Planned Unit Development (PUD) Procedure

An applicant seeking approval for any of the uses listed in Sections 5-322 D. or approval to utilize the area and bulk requirements in Section 5-322 F. must demonstrate to the satisfaction of the Board of County Commissioners substantial compliance with the standards in this section.

- I. The use is consistent with the Land Use Policies (Article 2);
- II. Adequate public services such as roads, water, wastewater disposal/treatment, public safety and fire protection are available to serve the proposed use and an applicant adequately mitigates the incremental impacts on the community's existing public services;
- III. The use minimizes or mitigates any materially adverse environmental impacts and generally utilizes the most environmentally suitable site;
- IV. Any proposed structures are located outside the Scenic Foreground Overlay Zone District or are designed consistently with the Scenic Foreground Overlay standards and meet the Scenic Quality standards in LUC Section 5-21;
- V. The use is consistent with the relevant goals and objectives of the San Miguel County Comprehensive Development Plan; and

- VI. In the Telluride Region, acceptable guarantees (as described in the Telluride Regional Area Master Plan) have been made for the provision of:
 - a. Adequate transportation to serve the development (see Section 5-2001);
 - b. A sufficient quantity and quality of affordable housing to house the employees attributable to the proposed land use (see Section 5-1304); and
 - c. A sufficient quantity and quality of recreational amenities to serve the residents of the development without overburdening existing off-site recreational facilities (see Section 5-803).
- VII. The use and density is compatible with existing adjacent neighborhoods.
- VIII. Large picture windows of glass that reflect toward the Town of Telluride, State highway 145, Colorado Avenue, Airport Road (CR 64L), and public use areas are to be avoided.
- IX. All exterior lighting fixtures shall utilize recessed light sources, shielded fixtures, low intensity lighting, or other features to minimize visual impact of light sources as seen from the Town of Telluride, public use areas, or from other areas of the hillside.

SECTION 5-4: AREAS AND ACTIVITIES OF LOCAL AND STATE INTEREST/"1041" ENVIRONMENTAL HAZARD REVIEW

5-401 Applicability

This section of the Code contains development standards for Areas and Activities of Local and State Interest, pursuant to C.R.S. Section 24-65.1-101 et seq. The standards apply to areas mapped on San Miguel County's adopted Environmental Hazard Maps and to unmapped areas known to be Areas of Local and State Interest ("Colorado House Bill 1041 Environmental Hazard Areas"). Section 5-401 D. identifies Areas of Local and State Interest, and Section 5-401 E. identifies Activities of Local and State Interest.

5-401 A. Administrative Reviews

The Planning Director may grant administrative 1041 environmental hazard review approval for the development of a single-family dwelling unit, accessory structures and a driveway.

5-401 B. One-step Planning Commission Reviews

The Planning Commission may only grant 1041 environmental hazard review approval for the development of a single-family dwelling unit, accessory structures and a driveway. The Planning Commission serves as the decision-making body for 1041 environmental hazard reviews when an applicant proposes to construct one single-family dwelling unit or accessory structure or and driveway within a mapped or known environmental hazard area.

5-401 C. Two-step Reviews

Reviews of multiple single-family dwelling units, multi-family dwelling units and non-residential uses in relation to Areas of Local and State Interest shall be two-step reviews.

All reviews relevant to Activities of Local and State Interest shall be two-step reviews.

5-401 D. The following are the Areas of Local and State interest within San Miguel County:

- I. Floodplain hazard areas (refer to Section 5-403);
- II. Geologic hazard areas (refer to Section 5-404);
- III. Historic and archaeological resource areas (refer to Section 5-405);

IV. Wildfire hazard areas (refer to Section 5-406); and

V. Wildlife habitat areas (refer to Section 5-407).

5-401 E. The following are the Activities of Local and State interest within San Miguel County:

I. Domestic Water and Sewage Treatment Systems (refer to Section 5-408);

II. Water Projects (refer to Section 5-409);

III. Solid Waste Disposal (refer to Section 5-410);

IV. Public Utility Facilities (refer to Section 5-411);

V. Highways (refer to Section 5-412);

VI. New Communities (refer to Section 5-413);

VII. Nuclear Detonations (refer to Section 5-414);

VIII. Areas Around Key Facilities (refer to Section 5-415);

IX. Rapid or Mass Transit Terminal Stations and Fixed Guideways (refer to Section 5-416);

X. Airports (refer to Section 5-417);

XI. Telluride Regional Airport (refer to Section 5-418);

5-402 General Standards

The standards in this section apply to all Areas of Local and State Interest with the exception of Mancos shale, expansive soil and rock, wildfire and historic and archaeological areas.

5-402 A. Development in Hazard-free Areas

Restrict development to a hazard-free area if such an area exists on a site.

5-402 B. Development in Hazard Areas

If no adequate hazard-free area exists on a site, the diversity of permitted uses in a zone district and permitted residential land use densities may be limited to minimize potential dangers to persons or wildlife.

5-402 C. Development Prohibited

Development shall be prohibited within an Area of Local and State Interest (C.R.S. 1041 Environmental Hazard Area) if:

- I. Site planning and engineering techniques cannot completely mitigate potential hazards to public health, safety and welfare.
- II. Development subjects persons or the County to dangers or expenses required to mitigate hazardous conditions, respond to emergencies created by such conditions or rehabilitate improvements and lands.

5-402 D. Exemptions

The following types of development shall be exempt from the provisions of Section 5-4 of this Code:

- I. As per C.R.S. 24-65.1-107: "Effect of article - developments in areas of state interest and activities of state interest meeting certain conditions: (1) This article shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions as of May 17, 1974: (a) The development or activity is covered by a current building permit issued by the appropriate local government; or (b) The development or activity has been approved by the electorate; or (c) The development or activity is to be on land: (I) Which has been conditionally or finally approved by the appropriate local government for planned unit development or for a use substantially the same as planned unit development; or (II) Which has been zoned by the appropriate local government for the use contemplated by such development or activity [meaning zoned in response to a specific development application]; or (III) With respect to which a development plan has been conditionally or finally approved by the appropriate governmental authority;" and
- II. Normal and customary ranching and agriculture-related uses or activities.

5-403 Floodplain Hazard Areas

In addition to the development standards in 5-402 and the San Miguel County Floodplain Regulations (refer to Section 5-28), the standards in this section apply to mapped floodplain hazard areas as depicted in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, National Flood Insurance Program, and to areas later found to be in flood hazard areas.

5-403 A. If no adequate hazard-free area exists on a site, development proposed within final base flood elevations Zones A1-30 and/or regulatory floodway shall:

- I. Have the lowest floor (including basement) elevated to one foot above the base flood level or be designed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- II. Be designed by a qualified professional engineer who shall certify that the flood proofing methods identified in Section 5-403 A.I. are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

5-404 Geologic Hazard Areas

This section identifies development standards applicable to specific geologic hazard areas in addition to the general standards in Section 5-402.

5-404 A. Avalanche areas

- I. If no adequate hazard-free area exists on a site, land uses shall be:
 - a. Protected by structural avalanche defenses designed by a certified engineer or architect to withstand avalanche damage; and
 - b. Restricted to the most protected areas and located as far away as possible from the base of steep slopes and ravines.
- II. Clear-cutting or other large-scale removal of vegetation shall be prohibited.
- III. Extractive operations in high hazard, or historic avalanche areas during winter shall be prohibited, unless an adequate program of avalanche control and defense measures exists.
- IV. Utility lines or pipes crossing historic avalanche areas shall be buried, and surface pipes and poles or towers for suspended transmission lines in historic or high or moderate hazard avalanche shall be protected by utilizing avalanche diversion methods or structures.
- V. Roads intended for winter use shall avoid avalanche hazard areas. Roads that must cross hazardous areas shall be protected through avalanche control practices.
- VI. Warning signs shall be placed along commonly traveled winter roads and trails that cross major avalanche paths.
- VII. Property owners who develop in avalanche areas or obtain driveway

access via avalanche areas shall bear the costs of any avalanche control measures.

- VIII. Building restrictions may be waived for construction of underground facilities such as water reservoirs or for temporary buildings used only in non-avalanche season and either protected or removed during the winter.

5-404 B. Landslide areas

If no adequate hazard-free area exists on a site, land uses shall:

- I. Insure strict adherence to recommended design, construction and maintenance procedures approved by qualified professional geologists or engineers;
- II. Avoid adding water to the site that would cause decreased stability;
- III. Avoid removing the toe of the slide without adequate mechanical support;
- IV. Avoid increasing the weight load on the top of the slide;
- V. Avoid removing vegetation from the site; and
- VI. Avoid oversteepening the existing slope of the slide.

5-404 C. Potentially Unstable Slopes

- I. If Development is proposed in an area containing moderate and extremely hazardous Slopes, Development shall be permitted only if design and construction stabilization and maintenance measures approved by a qualified professional geologist or engineer and the County are utilized.
- II. Any land uses on a potentially unstable slope area shall avoid:
 - a. Cutting into slope without providing adequate mechanical support;
 - b. Decreasing slope stability by adding water;
 - c. Adding weight to the top of the slope;
 - d. Removing vegetation from the slope without adequate revegetation; and
 - e. Oversteepening slopes.

5-404 D. Rockfall Areas

- I. If no adequate hazard-free area exists on a site, development shall:
 - a. Only be permitted if design and construction stabilization and maintenance measures approved by a qualified professional geologist or engineer and the County are utilized. Construction stabilization measures may include but are not limited to:
 - i. Stabilization of rocks by bolting, gunite application (cementing), removal of unstable rocks (scaling), cribbing or installation of retaining walls;
 - ii. Slowing or diverting moving rocks with rock fences, screening, channeling and dams, or with concrete barriers or covered galleries;
 - iii. Construction of physical barriers around vulnerable structures; and
 - iv. Periodic maintenance of mitigation measures.
- II. Development shall not:
 - a. Increase water supply to cliffs or overhangs;
 - b. Remove protective vegetation;
 - c. Add weight or otherwise disturb overhanging strata;
 - d. Cause any excavations that remove underlying support; or
 - e. Increase erosion that removes underlying support.

5-404 E. Slopes Greater Than 30 Percent

- I. If Development is proposed in an area containing Slopes greater than 30 percent design and Development shall be based upon a detailed site survey including geologic and engineering analysis to identify the most level Development Site on the Parcel.
- II. In addition a developer shall:
 - a. Provide mechanical support for all cuts;

- b. Confine cuts and fills and grading and scraping to the minimum area needed for construction;
- c. Provide for stability and revegetation of cut and fill slopes; and
- d. Retain a certified engineer to design a soil absorption sewage disposal systems.

5-404 F. Alluvial fans

- I. If no adequate hazard-free area exists on a site, land uses shall:
 - a. Be based upon site evaluation and recommendations by a qualified professional engineer or geologist; and
 - b. Be protected by channelizing, damming or diverting potential mud or debris flows utilizing engineering structures designed by a qualified professional engineer or geologist.
- II. A disturbance shall be prohibited in the drainage basin above a fan unless an evaluation of the effect on runoff and stability of the fan shows that disturbance is acceptable.

5-404 G. Talus slope

- I. If no adequate hazard-free area exists on a site, structural construction associated with residential, commercial, industrial and high impact recreational activity shall be permitted only if design and construction stabilization and maintenance measures approved by a qualified professional geologist or engineer and the County are utilized.
- II. In addition developers shall:
 - a. Design developments other than those referenced in section 5-404 G.I. to withstand down slope movement;
 - b. Bury foundations and utilities in talus slope areas below the active surface;
 - c. Minimize site disturbance in talus slope areas to avoid inducing slope instability; and
 - d. Not remove the toe of a talus slope without providing adequate mechanical support.

5-404 H. Mancos shale

Development within a Mancos shale area shall be permitted based upon an evaluation of the development's effect on slope stability and shrink-swell properties:

- I. If design and construction stabilization and maintenance measures approved by a qualified professional geologist or engineer and the County are utilized;
- II. If designed to provide adequate surface drainage; and
- III. If concentrated runoff from impervious surfaces into natural drainages is demonstrated to pose no threat of adverse effects.

5-404 I. Faults

If no adequate hazard-free area exists on a site, land uses shall incorporate adequate mitigation measures determined by a qualified professional engineer or geologist and approved by the County.

5-404 J. Expansive Soil and Rock

Development in an identified area of expansive soil and rock shall be permitted upon County approval of engineered foundation and floor system designs.

5-404 K. Ground Subsidence

In the event a development site is comprised exclusively of moderate and extremely hazardous areas, the development shall be permitted if design and construction stabilization and maintenance measures approved by a qualified professional geologist or engineer and the County are utilized.

5-405 Historic and Archaeological Resource Areas

5-405 A. Applicability

The development standards in this section apply to the following activities within Historic and Archaeological Resource Areas:

- I. Development;
- II. Changes in the amount or character of open space;
- III. Exterior alteration or remodeling of any existing structure within the site, or any addition thereto;

IV. Demolition or destruction of structures or buildings within the site.

5-405 B. Persons responsible for activities listed in Section 5-405 A. shall:

I. Minimize damage to historic structures; and

II. Demonstrate that a proposal will enhance the meaning of a historic or archaeological site as representative of a period, style, occasion or unique activity.

5-406 Wildfire Areas

Development within areas designated as wildfire areas on San Miguel County's adopted wildfire maps or on densely vegetated slopes in excess of 30 percent shall comply with the standards in this section.

5-406 A. Roof coverings.

Roof coverings shall be of a noncombustible material approved by the Underwriter's Laboratory.

5-406 B. Firebreak

A minimum 10-foot firebreak shall be maintained between combustible structures and vegetation.

5-406 C. Power and telephone lines

Power and telephone lines shall be buried.

5-407 Wildlife Habitat Areas

This section establishes land use standards for wildlife habitat areas in addition to the general standards in Section 5-402. The standards apply to areas mapped by the Colorado Parks and Wildlife (CPW) on the County's adopted Wildlife Resource Information System (C.R.S.1041 Wildlife maps) and to areas known to be wildlife habitat areas by the Colorado Parks and Wildlife, and areas mapped by the Colorado Natural Heritage Program. Agricultural and Ranching activities are exempt from this Section.

5-407 A. General Standards

The standards in this section apply to all wildlife habitat areas.

I. Residential development shall be clustered to avoid impacting wildlife and their habitat.

- II. Removal of vegetation shall be minimized. Vegetation removed shall be promptly replaced with beneficial native browse species.
- III. Wildlife food, cover and water shall be preserved and development effects that would destroy these shall be mitigated. Special consideration shall be given to trees and shrubs with high wildlife food value, especially heavy seed, berry and fruit producing species.
- IV. The planting of wildlife food species and woody cover along fences shall be encouraged as one way of improving wildlife habitat.
- V. Waterholes, springs, seepage, marshes, pond and watering areas shall be preserved.
- VI. Known endangered species habitats shall be preserved and all disturbances to those habitats shall be minimized.
- VII. Every golden eagle nest site, bald eagle roost site, and all other raptor nest sites shall be protected from the adverse impacts of development within a ½ mile buffer.
- VIII. Mesh or woven fences shall be prohibited and are encouraged to be removed.
- IX. Fences located within CPW designated mapped wildlife habitat areas are discouraged. Fences in such wildlife habitat areas shall be limited to “wildlife friendly fences” that are in compliance with applicable CPW fencing standards. Wildlife friendly fences are very visible and allow wild animals to easily jump over or slip under the wires or rails. The following regulations shall apply to fencing:
 - a. Smooth wire or rounded rail for the top, smooth wire on the bottom;
 - b. Fence is limited to 42: in height;
 - c. At least 12” between the top two wires or rails;
 - d. At least 16” between the bottom wire or rail and the ground;
 - e. Posts at minimum 16’ intervals;
 - f. Gates, drop-downs, removable fence sections or other passages where animals concentrate and cross;
 - g. Using a rail, high-visibility wire, flagging or other visual markers for the top.
 - h. A zigzagged worm fence (rails stacked alternately on top of one another, with rails interlocked like laced fingers where the ends meet) should create openings for wildlife to cross by intermittently dropping rails to the ground every 400’; and in swales and at stream crossing for easy wildlife

passage.

- i. Perimeter fencing of an entire parcel is discouraged.
- j. As an exception to “wildlife friendly fencing” dogs shall be kept in an enclosed kennel or small fenced yard adjacent to the residence. The standards or allowance for a small fenced yard or area shall be specified in the county’s revised dog or animal control regulations.

If staff has a question regarding the appropriateness of proposed fencing to be located within a CPW mapped wildlife habitat area the application may be referred to the CPW for comment and recommendation. Any new fencing shall follow the CPW “Fencing with Wildlife in Mind” guidelines available at the CPW website, www.wildlife.state.co.us

- X. Residential development shall maintain bear proof storage for garbage disposal for all parcels located in all zone districts.
- XI. Development activities, such as Subdivisions, PUDs and Special Use Permits uses may require a Wildlife Impact Assessment prepared by a qualified wildlife biologist or scientist for all mapped wildlife habitat areas or known habitat areas to be submitted with the land use application. The Impact Assessment should include changes, trends and proposed mitigation to be reviewed by the Colorado Parks and Wildlife or other County review staff.
- XII. Barking dogs, dogs at large, and stray dogs are not permitted in any unincorporated portion of San Miguel County pursuant to Board of County Commissioner Resolution 1982-27 or as may be set forth in the most current Board of County Commissioner Resolution regarding dog or animal control rules and regulations.
- XIII. It is illegal for dogs to chase and/or harass wildlife, on public or private property. A Colorado wildlife officer or other peace officer may capture or kill any dog he or she determines to be harassing wildlife, pursuant to C.R.S. §33-6-128.

5-407 B. Deer, Elk and Bighorn Sheep Winter Concentration Area/Severe Winter Range

Land uses in deer, elk or bighorn sheep winter concentration areas/severe winter range shall comply with the standards in Section 5-407 A. and the standards in this Section.

- I. Overgrazing of ranges by livestock shall be prohibited.

- II. Development shall be restricted to areas in which wildlife impacts can be minimized.
- III. Access for the Colorado Parks and Wildlife for managing wildlife shall be maintained.
- IV. Commercial activity and recreational uses requiring County review shall be prohibited from December through April 15.

5-407 C. Deer, Elk and Bighorn Sheep Winter Range

Land uses located in deer, elk or bighorn sheep winter range shall comply with Sections 5-407 A. and 5-407 B.I.-III. and the standard in this section.

Commercial activity and recreational uses requiring County review shall be prohibited from December 1 through April 15, unless an applicant can demonstrate written approval from the Colorado Parks and Wildlife of a site-specific wildlife protection plan. Such plan shall include CPW monitoring provisions and set forth on-site protection, including but not limited to habitat enhancement and habitat protection, including but not limited to control of fencing, noise, lighting and siting of structures, and establishment of routes and means of transportation and hours/days of operation. Permits must be renewed annually. The dates in this section may be modified and permits may be suspended at any time upon CPW recommendation on a case-by-case basis as necessary to protect the health of the herd.

5-407 D. Deer and Elk Migration Corridors

Land uses located in deer and elk Migration Corridors shall comply with Section 5-407 A. and the standards in this section.

- I. Development blocking a corridor and preventing migration between summer and winter ranges shall be prohibited.
- II. Fences restricting deer or elk migration shall be prohibited.

5-407 E. Deer and Elk Production Areas

Land uses located in deer and elk production areas shall comply with Section 5-407 A. and the standards in this Section.

- I. Where no appropriate development site exists in a production area, development shall be prohibited.
- II. Access shall be maintained for the Colorado Parks and Wildlife for trapping, tagging and studying wildlife.

- III. Manipulation of vegetation shall be prohibited, except within a designated building envelope.
- IV. Commercial and construction activity, recreational uses and off-road motorized activity shall be prohibited from May 1 through June 30. These dates may be modified upon Colorado Parks and Wildlife recommendation on a case-by-case basis as necessary to protect the health of the herd.

5-407 F. Riparian Areas and Shorelands

Land uses located in riparian or shoreland areas shall comply with the standards in 5-407 A. and the standards in this section.

- I. Development and the removal of vegetation and disturbance of ground cover within the riparian area shall be prohibited.
- II. Culverts shall be designed to prevent plugging and washouts.
- III. Culverts that may become barriers to fish passage shall be prohibited.
- IV. Riparian and shoreland habitat areas that have been denuded or disturbed by development shall be revegetated in the first available growing season.

5-408 Domestic Water and Sewage Treatment Systems

5-408 A. New Systems

New domestic water and sewage treatment systems shall be constructed in areas where proper utilization of existing treatment plants is possible and the orderly development of domestic water and sewage treatment systems of adjacent communities is facilitated.

5-408 B. Extensions of Systems

Extensions of domestic water and sewage treatment systems shall be limited to areas in which development that may occur as a result of such extension:

- I. Is consistent with the San Miguel County Comprehensive Development Plan; and
- II. Can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

5-409 Water Projects

5-409 A. Efficient Water Use

Municipal and industrial water projects shall emphasize the most efficient use of water possible, including the recycling and reuse of water to the extent permissible under law.

5-409 B. Prevent Pollution of Aquifer

Storm water and sanitation systems shall be sited and design not to pollute aquifer recharge areas.

5-410 Solid Waste Disposal

5-410 A. Sites for Solid Waste Disposal

Sites for solid waste disposal shall be chosen in accordance with sound conservation practices, shall accommodate and emphasize recycling of waste materials and shall be based upon:

- I. Site longevity and potential reuse;
- II. Soil and wind conditions;
- III. Potential on- and off-site pollution;
- IV. Potential impact on adjacent property owners; and
- V. Comparison to alternate locations.

5-411 Public Utility Facilities

5-411 A. Sites for Public Utility Facilities

Where feasible, major facilities of public utilities shall be located consistently with the San Miguel County Comprehensive Development Plan.

5-412 Highways

5-412 A. Sites for Highways

Sites for highways shall be selected consistently with the San Miguel County Comprehensive Development Plan to meet community traffic needs and to ensure that desirable community patterns are not disrupted.

5-413 New Communities

5-413 A. Standards for New Communities

Each new community, at a minimum, shall provide for internal and regional transportation, waste disposal, schools and other governmental services in a manner that will prevent overloading of existing facilities.

5-413 B. In addition, no new community shall be approved unless:

- I. Sufficient existing and projected need exists within the County and region to warrant and support the proposed activity;
- II. All detrimental environmental impacts will be mitigated;
- III. The proposed activity will not conflict with existing or approved surrounding land uses; and
- IV. The proposed activity will not make demands upon natural resources, including, but not limited to, energy resources, which demands are, in the opinion of the Board of County Commissioners, outweigh the potential benefits of the activity.

5-414 Nuclear Detonations

5-414 A. Prohibition on Nuclear Detonations

All nuclear detonations shall be prohibited.

5-415 Areas Around Key Facilities

5-415 A. Public health, safety and welfare

If the development of a key facility poses a danger to the public, land use in the area around such facility shall be regulated sufficiently to minimize any threat to the health, safety and welfare of the public.

5-415 B. Traffic congestion, incompatible uses and excessive expansion of the demand for government services

Land use and development in areas around key facilities shall be regulated to discourage traffic congestion, incompatible uses and excessive expansion of the demand for government services, as determined by the Board of County Commissioners.

5-415 C. Compatibility with non-motorized traffic

Development of key facilities shall be regulated to encourage compatibility with non-motorized traffic.

5-415 D. Burdens on Public

Development of a key facility that imposes burdens or deprivation on the public shall not be approved solely on the basis of potential benefit.

5-416 Transit Stations and Fixed Guideways

5-416 A. Sites for Transit Stations and Fixed Guideways

Locate transit stations or guideways consistently with San Miguel County Comprehensive Development Plan.

5-416 B. In addition, transit stations or rights-of-way shall be developed and designed to:

- I. Minimize street congestion;
- II. Secure the public from fire, flood and other danger;
- III. Promote the public health, safety and general welfare;
- IV. Include adequate lighting and space;
- V. Avoid undue concentration of population;
- VI. Facilitate the adequate provision of transportation, water sewage, schools, parks and other public requirements; and
- VII. Be compatible with the character of the area and encourage the most appropriate use of land.

5-416 C. Locating Stations and Rights-of-Way

Sites for locating transit stations and fixed rights-of-way that do not necessitate demolition of residences or businesses shall be awarded preference over those that do.

5-416 D. Standards for Areas Around Transit Facilities

Development and land uses around transit stations and fixed rights-of-way shall be consistent with the transit uses as well as the character of the area.

5-416 E. Preservation of Transit Rights-of-way

Development shall be regulated that would later conflict physically with rights-of-way or substantially increase public investment required to acquire rights-of-way.

5-417 Airports

5-417 A. Sites for Airports

Airports shall be located to:

- I. Minimize disruption to surrounding land uses;
- II. Minimize demands on community services; and
- III. Complement the economic and transportation needs and goals of the County.

5-417 B. Protection of Public

- I. Regulate land use to protect residential and other noise sensitive land uses from airport noise.
- II. Avoid danger to public health and safety or property due to aircraft crashes.

5-417 C. Airport Impact Area

For each planned airport, an Airport Impact Area shall be defined.

5-417 D. Land Uses Prohibited in Airport Impact Area

Uses or activities potentially resulting in the following shall be prohibited within an Airport Impact Area:

- I. Electrical interference with navigational signals or radio communication between the airport and aircraft;
- II. Difficulties for pilots attempting to distinguish between airport lights and other lighting;
- III. Glare in the eyes of pilots using the airport;
- IV. Impairing visibility in the vicinity of the airports; or
- V. Creating a hazard or endangering the landing, takeoff, or maneuvering of

aircraft intending to use the airport.

5-417 E. Land Uses in Airport Impact Areas

All land uses approved in Airport Impact Areas shall not subject to hazard aircraft taking off or landing.

- I. Where day-night noise level caused by airport uses is determined to be 65 dB [A] or greater, all uses other than public airport and transportation uses, short-term accommodations, office buildings, retail facilities, movie theatres, restaurants and certain open space uses (including agriculture and recreation uses not causing high concentrations of people) shall be prohibited.
- II. Where day-night noise level caused by airport uses is determined to be between 60 and 65 dB [A], uses such as schools, churches, hospitals libraries, auditoriums and outdoor amphitheaters and concert halls, shall be discouraged.
- III. Residential uses in Airport Impact Areas shall be designed to minimize impacts from airport noise and all other potentially adverse effects of aircraft operation by utilizing construction techniques to reduce noise and other adverse effects to levels acceptable to the Federal Aviation Administration.
- IV. Any application for a proposed use not prohibited in this section shall demonstrate that the proposed development poses no significant threat to public health and safety or to property and that insurance is available for the development. Approval may be conditioned on the granting of an aviation easement.

5-417 F. Airport Height Zones

Before any structure is permitted to be erected, altered, maintained or allowed to be expanded within an Airport Impact Area, the Board of County Commissioners may require a Notice of Construction or Alteration to be filed with the Federal Aviation Administration for a determination of hazardous or non-hazardous conditions and effect on the airport operational Rules and Regulations. In such cases, the Board of County Commissioners shall not approve any such development until the Federal Aviation Administration has recommended approval.

5-418 Telluride Regional Airport

5-418 A. Purpose

This section administers the area around the Telluride Regional Airport.

5-418 B. Airport Impact Area for the Telluride Regional Airport

This section shall apply to all land within the Airport Impact Area for the Telluride Regional Airport, which includes all unincorporated land beneath the "Imaginary Surfaces Plan Existing Boundaries," which appears as Appendix "D" of this Code.

5-418 C. Policies

The Airport Impact Area shall be administered to:

- I. Encourage land use patterns for housing and other uses that will separate uncontrollable noise sources from residential and other noise sensitive areas; and
- II. Avoid danger to public health and safety and to property due to aircraft crashes.

5-418 D. Minimum Submission Requirements

Submission contents for all development determined by the Board of Commissioners to require Federal Aviation Administration Approval as per Section 5-417 F. of this Code shall include:

- I. A map or maps showing the location, nature and density of the proposed development or land use. Such maps shall be of a scale no less than 1" = 500' and shall specifically show the development in relation to the airport and shall show any significant natural and man-made features of the site and surrounding areas; and
- II. A discussion of the proposed development and how it would address the policies of Section 5-418 C. of this Code.

5-418 E. Additional Submission Requirements

When determined necessary by the Board of County Commissioners, the submission shall also include any or all of the following:

- I. The location of existing or proposed airport facilities including towers, lights, terminals, hangars, aprons, parking areas and runways;

- II. The location and elevation of existing and proposed streets, highways, transit routes and fixed transit lines within or directly adjacent to any approved airport;
- III. The contours of the ground and elevation of existing and proposed structures;
- IV. Specifications for building and construction materials, noting any special measures for soundproofing or insulation;
- V. A traffic impact survey detailing the effect of the development on traffic congestion and airport access and upon non-motorized traffic; and
- VI. Evidence of the frequency, elevation and pattern(s) of aircraft flights over the proposed site.

5-418 F. Height Limitation Zones

Certain zones that include all land beneath approach, transitional, horizontal and conical surfaces are hereby established. Where land lies beneath more than one zone, it shall be treated as lying beneath the zone with the more restrictive height limitation. The height limitation zones are:

- I. Runway Visual Approach Zone - The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The zone expands uniformly outward to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface, and its centerline is the continuation of the runway centerline;
- II. Transitional Zones - These are areas beneath the transitional surfaces;
- III. Horizontal Zone - This zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones; and
- IV. Conical Zone - This zone extends from the periphery of the horizontal zone outward a horizontal distance of 4,000 feet.

5-418 G. Height Limits

No structure shall be constructed and no tree shall be allowed to grow above or outside the following limits:

- I. Runway Visual Approach Zone - The limiting surface slopes 20 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface, and extending 5,000 feet along the runway centerline;
- II. Transitional Zones - The limiting surface slopes 20 feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extends 150 feet above the elevation of the runway. In addition, the limiting surface slopes 7 feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extends to the intersection of the horizontal and/or conical surface(s);
- III. Horizontal Zone - The limiting surface lies 150 above the runway elevation. On terrain above the runway elevation, the limiting surface lies 60 feet directly above the ground surface; and
- IV. Conical Zone - The limiting surface slopes 20 feet outward for each foot upward, beginning at the periphery of the horizontal zone, 150 feet above the runway elevation and extending to 350 feet above the runway elevation. On terrain above the runway elevation, the limiting surface lies 60 feet directly above the ground surface; in addition
- V. No material change shall be made in the use of land, no structure shall be constructed, and no tree shall be planted above the limiting surfaces established in this Section without a permit approved by the Board of County Commissioners that includes all submission requirements listed in Sections 5-418 D. and 5-418 E.; and
- VI. Before any structure is permitted to be erected, altered, maintained or allowed to be expanded within an Airport Impact Area, the Board of County Commissioners may require a Notice of Construction or Alteration to be filed with the Federal Aviation Administration for a determination of hazardous or non-hazardous conditions and effect on the airport operational Rules and Regulations.

In such cases, the Board of County Commissioners shall not approve any such development until the Federal Aviation Administration has recommended approval.

5-418 H. Permitted Nonconforming Uses

The regulations prescribed herein shall not be construed to require removal, lowering or other change or alteration or any structure or tree not conforming to this regulation at the date of adoption of this Code, or otherwise interfere with the continuance of any nonconforming use.

5-418 I. Lighting of Nonconforming Structures or Trees

The owner of any structure or tree not conforming to the requirements in Section 5-418 F. shall permit the installation, operation and maintenance of such markers and/or lights deemed necessary by the Telluride Regional Airport Authority to indicate to aircraft operators the presence of such structures or trees. Such markers and lights shall be installed, operated and maintained at the expense of the Telluride Regional Airport Authority.

5-418 J. Prohibition of Increase in Hazards to Air Navigation

No permit shall be approved that would allow the hazard to air navigation of any use, structure or tree to increase.

5-418 K. Abandoned or Destroyed Nonconforming Uses

Whenever a nonconforming tree or structure has been abandoned or more than 80 percent destroyed, deteriorated or decayed, no permit shall be granted that would allow such use, structure or tree to exceed the applicable height limit set forth in Section 5-418 F. or otherwise deviate from any regulation in Section 5-418 of this Code.

SECTION 5-5: ROADS, HIGHWAYS, STREETS AND TRAILS

5-501 Road Development Standards

This section establishes development standards for all public and private rights-of-way in San Miguel County, except non-residential uses in the Forestry, Agriculture and Open Zone District, and except for development in the HCA Zone District. Construction of new roadways and improvements to existing public roads in the HCA Zone District are prohibited. Driveways may be constructed in the HCA but they are subject to the development standards contained in Land Use Code Section 5-321. County Building Department and Planning Department Development Permit Review and County Road and Bridge Department Review are required for all Road Improvements, driveways, driveway improvements and Trails. This Section is intended to maintain uniform road development throughout the County.

5-501 A. Applicability

The provisions herein shall apply to all construction and other work affecting rights-of-way in San Miguel County.

5-501 B. Exemption

The Board of County Commissioners may grant an exemption from any standard in Section 5-501 or 5-502, provided the Board finds such exemption will not adversely affect public health, safety and welfare.

5-501 C. Right-of-Way Dedication

As a condition of the final approval of any development, the Board of County Commissioners shall require each developer to dedicate rights-of-way for public use on and along any and all existing County roads that traverse the development, and those dedicated rights-of-way shall meet all standards in this Section 5.5.

5-501 D. County Road Map

An official San Miguel County Road Map showing all roads accepted for maintenance by the County and their classifications, adopted by the Board of County Commissioners and available at the County Road and Bridge Department shall be updated annually.

5-501 E. Road Development Review and Permits

In addition to all applicable review processes established in Article 3, the County Engineer and County Road Superintendent shall review road development plans and conduct inspections to ensure adherence to the provisions of Section 5-5. A

Permit from the Road and Bridge Department is required prior to performing any work within County Road right-of-way.

5-501 F. Road Classification

Roads are classified as follows (see Figures 5-1A through 5-1G):

- I. Local Service Road - not a subdivision road, serves isolated, primarily rural areas with few parcels and little potential for additional development; also serves Open Land Protection Subdivision Exemption developments (see Section 5-1207);
- II. Local Access Road - provides direct access from abutting properties to other roads;
- III. Collector - vicinity-wide continuous access road connecting local access roads to arterials;
- IV. Minor Arterial - links towns and other areas of concentrated development with intra-County service, and provides for relatively high overall travel speeds with minimum interference to through movement; and
- V. Principal Arterial - continuous access-controlled road that serves corridor movements with trip length and travel density characteristics indicative of statewide travel; principal arterials in the County typically are administered by the Colorado Department of Transportation (CDOT).

5-501 G. Design Capacities

The maximum allowable capacities for roads (expressed in Average Daily Traffic one-way trips) are:

- I. Principal Arterial - 10,000;
- II. Minor Arterial - 4,400;
- III. Collector - 1,500;
- IV. Local Access - 500;
- V. Local Service - 150

5-501 H. Additional Submission Requirements

In addition to all applicable submission requirements specified in Article 4, any road development proposal, including addition to and/or realignment of existing

roadway, relinquishment of State highway, and all road development components of a Sketch Plan submission shall include, pursuant to Section 5-502:

- I. Analysis of the population density to be served;
- II. Estimates of traffic volumes expected over a 20-year period;
- III. Proposed classifications and design speeds;
- IV. Preliminary alignments and road grades;
- V. A brief review of fiscal impact in relation to County road maintenance;
and
- VI. Analysis of impacts to existing roadways and adjacent properties.

All detailed plans and specifications, including all road development components of a Preliminary Plan submission, shall be prepared and certified by a Professional Engineer registered in the State of Colorado, sufficiently detailed to facilitate review, and -- when not related to a new subdivision -- submitted for County Engineer and Road Superintendent review at least 60 days prior to desired construction date. If construction doesn't commence within one year following the applicable approval, detailed design must be re-submitted, and any amendments to Land Use code standards made in the interim shall apply. Alternately, a phasing schedule may be submitted for approval. All detailed plans and specifications, including all road development components of a Preliminary Plan submission, shall include:

- VII. Profiles for all roads, including existing and proposed sewer and water lines, showing grades; lengths of vertical curves; stationing and elevations of beginning and end of vertical curves and point of intersection of vertical curves; existing grade or ground lines by dashed line; culverts, structures, and other controls. All profile views shall be drawn to a scale of 1" = 50' horizontal, and 1" = 5' vertical on 24"x 36" sheets;
- VIII. A description of at least two usable benchmarks within ½ mile; USGS or BLM benchmarks shall be used when possible;
- IX. Layout of road showing length of tangents and curves, widths of rights-of-way, slope lines demonstrating sufficient right-of-way width, stationing of beginning and end of curves, curve radii, delta angles, bearings, distances, centerline stationing at 100-foot intervals, dimensions of all road elements, curbs, gutters, utilities easements, and other structures, limits and inclination of cut and fill slopes with new and existing elevation contours, and location and size of culverts designating the type and gauge or

strength classification and the estimated flow along with data assumed in estimating the flow;

- X. North arrow, scale, street names, drainage patterns, and typical road cross-sections;
- XI. Construction plans for all structures such as bridges, box culverts, and guardrails;
- XII. A statement defining scope and work period for each stage of construction and identifying party or parties responsible for construction; and
- XIII. Letters from utility companies, ditch companies, fire protection districts, and other interested parties or agencies involved stating their approval of any structure constructed within their right-of-way or that may influence their rights or interests.

5-501 I. Bonding Requirements

All proposed road development not bonded as part of subdivision approval (see Section 3-12) shall be bonded through an escrow account or uncancellable surety secured unto the County and acceptable to the County Attorney in 125 percent of the amount of the estimated construction cost as approved by the County Engineer. Bonds shall be forfeited if work is not completed in accordance with the approved plans and specifications, or if in the opinion of the County Engineer and/or Road Superintendent, work is not progressing satisfactorily. As logical units of work are completed and approved by the County Engineer, application may be made for partial release of bond.

5-501 J. Inspection of Work

During road construction, the project design engineer shall at the expense of the developer inspect the work of the contractor(s) involved, provide status reports to the County Engineer monthly or more frequently (as required by the County Engineer), and review and certify to the County Engineer work completed in conjunction with requests for partial release of bond under the Administrative Review Procedure established in Section 3-4. The County Engineer may at any time at the expense of the developer review work and/or request verification that work is preceding in accordance with approved plans and specifications.

5-501 K. Upgrading Existing County Roads

Where an existing roadway is planned to serve a new development, the developer shall, at the developer's expense, upgrade the roadway to the minimum standards required by these regulations if the traffic volume projected pursuant to Section 5-501 G.II. is greater than the capacity of the existing road.

5-501 L. Road Vacation

- I. Any person wishing to initiate the vacation and/or relocation of a County public roadway or right-of-way shall submit to the County Planning Department an application that includes, at a minimum, the following information:
 - a. A complete and accurate legal description of the portion(s) of the roadway or right-of-way proposed for vacation;
 - b. The reason for such vacation;
 - c. Whether the roadway is to be relocated;
 - d. The names and addresses of all owners of record whom own land adjacent to the roadway or right-of-way;
 - e. The names and addresses of all utility companies, or other persons, with easements or other rights in or adjacent to the subject roadway or right-of-way; and
 - f. A description as to whether the adjacent parcels will have access to a public road upon any such vacation, and if not, any other provision for reasonable access to a public road proposed by the applicant.
- II. The County may require the applicant to prepare plat maps and other legal documents for review and consideration by the Planning Commission, pursuant to C.R.S. 30-28-110(1)(d), before review by the Board of County Commissioners, which materials may be necessary to vacate the roadway or right-of-way and vest title to the vacated portions thereof;

5-502 Road Design Standards

This section establishes roadway design standards intended for use by design engineers to ensure the health, safety, and welfare of County residents and to ensure that the County will not need to rectify inadequately designed and constructed facilities.

5-502 A. Design Criteria

Projection of future development and densities, estimates of future traffic volumes, appropriate classifications, design speeds, and terrain category must be determined prior to design of a new road (see also Section 5-501 G.). Road classification and terrain category together shall determine the required geometric cross-section and maximum sustained grades, while design speed shall determine

minimum or maximum standards for elements of alignment such as stopping and passing sight distances, radii of curvature, tangent lengths, and superelevation transition lengths.

5-502 B. Design Period

Roadway design shall be based on the projected needs 20 years after construction. Projections of development over the design period shall be based on the San Miguel County Comprehensive Development Plan, existing or requested zoning as specified in the Land Use Code, existing land use, proximity to developed areas, historic growth, and other factors expected to influence development.

5-502 C. Projected Traffic Volumes

Figure 5-1, below, quantifies traffic generated by various types of development as expressed in average daily traffic (ADT) one-way trips. These per-unit ADT counts shall be applied to the projected development to formulate estimates of the design year traffic volumes. When per-unit ADT counts are not listed for a type of development, the developer shall propose per-unit ADT counts for approval by the County Engineer.

FIGURE 5-1**PER UNIT AVERAGE DAILY TRAFFIC (ADT)**

Vehicle Trip Generation					
Land Use	Unit	Total Person Trips	Strong Transit System	Weak Transit System	No Transit System
1. Residential					
a. Single Family	Dwelling	15/d.u.	4/d.u.	6/d.u.	7/d.u.
b. Apartments/ Condominiums	d.u.	12/d.u.	3/d.u.	5/d.u.	6/d.u.
c. Lodges	Unit	8/d.u.	2/d.u.	4/d.u.	4/d.u.
2. Commercial					
a. Retail Shop	Floor area (sq. ft.)	40/1000 sq. ft.	10/1000 sq. ft.	20/1000 sq. ft.	30/1000 sq. ft.
b. Eat & Drink	(sq. ft.)	60/1000 sq. ft.	15/1000 sq. ft.	25/1000 sq. ft.	30/1000 sq. ft.
c. Business Office	(sq. ft.)	20/1000 sq. ft.	8/1000 sq. ft.	12/1000 sq. ft.	15/1000 sq. ft.
3. Schools	Student	2/student	200/1000 student	250/1000 student	250/1000 student
4. Ski Areas	Ski Lift Capacity (skiers per hour)	600/1000 skiers per hour of cap.	100/1000 cap.	150/1000 cap.	200/1000 cap.
5. Other Public/ Recreational	Varies	10/1000 s.f. (bldgs) 5/acre (land)	4/1000 s.f. 2/acres	5/1000 s.f. 2.5/acres	5/1000 s.f. 2.5/acres

5-502 D. Surfacing

All subdivision roads in the Telluride Region shall be paved. Other roads may have gravel surface.

5-502 E. Right-of-Way Width

Minimum right-of-way widths are specified in Figures 5-1A through 5-1G. Additional right-of-way shall be provided for drainage improvements, cuts or fills, intersections, curb returns, snow storage and other road appurtenances as specified by the County Engineer.

5-502 F. Cul-de-Sacs

Cul-de-sacs shall be avoided wherever possible. Where cul-de-sacs are the only alternative, turnarounds shall be provided with a minimum road surface 90 feet in diameter and a minimum right-of-way 100 feet in diameter. Adequate snow storage shall be provided at turnarounds. Cul-de-sac streets shall be no longer than 600 feet.

5-502 G. Frontage Roads

Where a subdivision abuts an existing road or highway, parallel service roads may be required, and right of access to the existing road or highway may be limited.

5-502 H. Curbs and Gutters

Concrete curbs and gutters constructed of Class B concrete (as defined by CDOT standards) shall be required along all roads in non-residential areas and along all roads in subdivisions with three or more lots per acre. Standard vertical curbs shall be used on all returns at street intersections, and curb treatment shall be required at driveway entrances.

5-502 I. Sidewalks

Sidewalks constructed of Class B concrete eight-feet wide shall be required along all streets with non-residential uses. Sidewalks four-feet wide shall be required on both sides of all residential streets where population densities proposed exceed three or more dwelling units per acre and where lot or building frontage is less than 65 feet. Sidewalks may also be required through the center of long blocks, to connect cul-de-sac streets, and to provide access to schools, parks, playgrounds, rivers and/or other open space areas.

5-502 J. Route Corridor and Terrain Factors

The entire route corridor of a road shall be considered when establishing terrain factor. Most roads in the County are in mountainous terrain. Some shorter roads, such as those in subdivisions, may exist entirely in level terrain.

- I. Level terrain is where road sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made to be so without construction difficulty or major expense;
- II. Rolling terrain is where natural slopes consistently rise above and fall below the road grade line and where occasional steep slopes offer restriction to normal horizontal and vertical alignment; and
- III. Mountainous terrain is where longitudinal and transverse changes in ground elevation with respect to the road are abrupt and where the roadbed is obtained by frequent benching or side-hill excavation.

5-502 K. Design Speed

The selection of design speed is influenced principally by the terrain character, traffic volume, and economic considerations. The following table establishes appropriate ranges of design speeds for various conditions:

ADT	0-25	25-250-500	500-1000-15000	1500-4400+
Level	30	30 40	50 55	55 65
Rolling	20	25 30	40 45	50 55
Mountainous	15	20 25	30 35	40 45
	Local Service	Local Access	Collector	Minor/Principal Arterial
See Figure 5-1G for a summary of values of roadway physical elements for various design speeds.				

5-502 L. Grades

Road grades (expressed in percent) shall not exceed the following values:

Design Speed MPH							
Type of Terrain	15	20	25	30	35	40+	50+
Level	8	8	7	6	5	4	3
Rolling	8	8	8	7	6	5	4
Mountainous	10	10	9	8	8	7	6

Curves with centerline radii of less than 250 feet shall not exceed eight percent. Ten percent grades shall not be allowed for more than 500 linear feet of any 1000 linear feet.

5-502 M. Sight Distance

The following table establishes minimum required stopping sight distance and passing site distance. Criteria for measuring sight distance, both vertical and horizontal, are:

- I. For stopping sight distance, height of eye, 3.75 feet, and height of object, 0.5 feet; for passing sight distance, height of eye, 3.75 feet, and height of object, 4.5 feet.

Design Speed, MPH	15-20	30	40	50
Stopping Sight Distance				
Minimum Stopping Sight Distance, feet	150	200	275	350
K value for: *				
Crest vertical curve	16	28	55	85
Sag vertical curve	24	35	55	75
Desirable Stopping Sight Distance, feet	150	200	300	450
K value for: *				
Crest vertical curve	16	28	65	145
Sag vertical curve	24	35	60	100
Passing Sight Distance				
Passing distance, feet 2 lane		1100	1500	1800
K Value for: *				
Crest vertical curve		365	686	985
K value is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve that will provide minimum sight distance.				

5-502 N. Alignment

Alignment between control points shall achieve a standard commensurate with topography, terrain, design traffic, and reasonably obtainable right-of-way, as determined by the County Engineer. Sudden changes between curves of widely different radii or between long tangents and sharp curves shall be prohibited. Design shall accommodate passing opportunities wherever possible. Where crest vertical curves and horizontal curves occur at the same location, above-minimum sight distance design shall be required to assure that the horizontal curve is visible as drivers approach.

The following table establishes maximum curvature for different design speeds as dependent on maximum superelevation value:

Design Speed (mph)	Maximum E	Minimum Radius (Rounded Feet)	Maximum Degree of Curve Rounded Degrees
15	.06	100	53.5
20	.06	115	50.0
30	.06	275	21.0
40	.06	510	11.5
50	.06	830	7.0
20	.08	100	53.5
30	.08	250	23.0
40	.08	460	12.5
50	.08	760	7.5

e = rate of roadway superelevation, foot per foot

5-502 O. Road Surface Classification

Road surfaces are classified as follows:

- I. Low type surfaces are those with surface treated earth surfaces and those with loose surfaces such as gravel;
- II. Intermediate type pavements are designed to retain smooth riding qualities and good non-skid properties in all weather under light roads and low traffic volumes; and
- III. High type pavements retain smooth riding qualities and good non-skid properties in all weather under heavy traffic volumes and loadings with little maintenance.

5-502 P. Traveled Way Crown

The following table establishes acceptable pavement or surfacing crown adequate to provide proper drainage:

Surface Type	Range in Rate of Cross Slope	
	Inch Per Foot	Foot Per Foot
High	3/16 – 1/4	.015 - .02
Intermediate	3/16 – 3/8	.015 - .03
Low	1/4 - 1/2	.02 - .04

5-502 Q. Superelevation

Superelevation runoff is the length of highway needed to accomplish the change in cross slope from a normal crown section to a fully superelevated section. For roads where snow and ice conditions prevail the superelevation shall not exceed 0.08 feet per foot. The following table establishes minimum lengths of runoff. Adjustments in design runoff lengths may be necessary, as determined by the County Engineer, for smooth riding, surface drainage, and good appearance.

Superelevation Rate	L-Length of runoff in feet for design speed for:			
Foot per foot:	10 MPH	30 MPH	40 MPH	50 MPH
.02	50	100	125	150
.04	50	100	125	150
.06	50	100	125	150
.08	50	100	125	150

5-502 R. Number of Lanes

The number of lanes shall accommodate the design volume. The majority of roads in San Miguel County will have two lanes. Where more than two lanes are warranted to accommodate design volumes, determinations of design shall be made as indicated in American Association of State Highway and Transportation Officials (AASHTO) Design Standards for Highways Other Than Freeways.

5-502 S. Width of Driving Surface, Shoulder and Roadway

The following table establishes minimum width of driving surface and of graded usable shoulder for various traffic volumes and design speeds. Graded shoulder width is measured from the edge of surfacing (pavement) to the point of intersection of shoulder slope and side slope. In mountainous terrain, with a minimum two-foot shoulder, the graded width of shoulder in cuts may be decreased 2 feet if guardrail is installed. Guardrail shall not be closer than 2 feet from the driving surface.

The minimum roadway width is the direct sum of the surfacing and graded shoulder widths shown below. Lanes shall be at least 11 feet wide and shoulders 2 feet wider than the minimum shown below.

Width of Surfacing & Graded Shoulder

Design Speed (mph)	Design Volume						
	0- 25	25- 250	250- 600	700- 1000	1000- 2500	2500- 4400	4400+
Width of Driving Surface (Feet)							
15	16	--	--	--	--	--	--
20	16	22	22	24	24	24	24
30	16	22	22	24	24	24	24
40	--	24	24	24	24	24	24
50	--	24	24	24	24	24	24
Width of Shoulder (Feet)							
All Speeds	-- 2	2- 4	2- 6	4- 6	6- 8	6- 8	8

5-502 T. Switchbacks

Switchbacks are not considered a good roadway design solution for gaining elevation, especially on hillsides steeper than 20 percent where switchbacks produce visual heavy impact. No switchback shall have a tangent less than ¼-mile from the last switchback. Grades on switchbacks shall be reduced to zero at the apex of the vertical curve on horizontal curves less than 150 feet, and the horizontal curve shall not begin prior to the end of the vertical curve for these purposes.

5-502 U. Vertical Clearance

Vertical clearance at underpasses, power lines, streetlights, etc., shall be at least 15 feet over the entire roadway width.

5-502 V. Horizontal Clearance

On a road with an ADT volume of 1,000 or more and with a design speed of 50 mph or greater, a clear roadside recovery area at least 10-to-20-feet outside the shoulder shall be provided. Where the design speed exceeds 25 mph, or ADT is less than 1,000, a clear roadside recovery area at least eight-to-12 feet from the edge of the through traffic lane shall be provided. The clear roadside area shall be appropriately flat and rounded in cross-section design, except:

- I. in cut sections where fixed objects are located sufficiently up the cut slope such that little likelihood exists that they could be struck; and
- II. where guardrail protection is provided.

The recovery area shall be clear of objects such as un-yielding trees, un-yielding sign supports, utility poles, un-yielding light poles and all other fixed objects that might severely damage an out-of-control vehicle. To the extent feasible, where another highway or railroad passes over, the structure shall be designed so that the pier or abutment supports have lateral clearance as great as the clear roadside area on the approach road. Where it is not feasible to carry the approach roadway across an overpass or other bridge, an appropriately transitioned guardrail shall be provided and securely anchored to the bridge rail. At hazardous locations, such as the outside of a sharp curve on low fill, where guardrail is not provided, a much greater horizontal clearance shall be provided, as approved by the County Engineer. Minimum horizontal clearance to manmade objects, such as fences and power poles, shall be 20 feet from centerline.

5-502 W. Intersection Design

Intersection design shall avoid steep-profile grades and ensure adequate approach sight distance. Intersections shall not be located on short crest vertical curves, just beyond short crest vertical curves, or on sharp horizontal curves. Where no practical alternative to such locations exists, cut slopes shall be flattened and horizontal and/or vertical curves lengthened to provide additional sight distance. Sufficient sight distance shall permit a passenger vehicle on the minor leg of an intersection to cross the traveled way without requiring approaching through traffic to slow down. A minimum of six seconds shall be available to the driver crossing the through lanes. The following table establishes corner sight distance for each design speed:

Design Speed (mph)	Minimum Corner Intersection Sight Distance, in Feet*
50	500
40	400
30	300
20	200

*Corner sight distance measured from a point on the minor road at least 15 feet from the edge of the major road pavement and measured from a height of eye to 3.75 feet on the minor road to a height of 4.5 feet on the major road. See AASHTO Policy on Geometric Design of Rural Highways Figure VIII-5, Page 398. Intersections shall be designed with a 50-foot minimum corner radius of pavement or surfacing. Where turning volumes are significant, consideration shall be given to speed-change lanes and channelization. Intersection legs operating under STOP control shall be designed at as close to right angles as feasible. Intersections shall be at plus or minus two percent a minimum of 20 feet for each 10 miles per hour of design speed of the road,

prior to the intersection for arterial and collection. In mountainous terrain for Local Access and Access Tracts, all grades shall flatten to 4 percent or less for at least 50 feet approaching intersections and at least 25 feet from cul-de-sacs.

5-502 X. Side Slopes

Cut and fill slopes shall be required as shown in Figures 5-1A through 5-1F. In unstable soils, flatter slopes may be required. Where heavy snowfall is expected, flatter slopes in cuts on the southern side of the roadway may be required to provide maximum sun exposure. Flatter slopes shall be used wherever possible to reduce erosion, to decrease maintenance costs, to facilitate plant growth, and to provide for safer operation.

Transition slopes shall be provided between adjoining cuts and fills. Where cut or fill slopes intersect the original ground surface, the cross-section shall be rounded to blend the slope into the natural ground surface. Any cut or fill slope steeper than 2:1 must be supported by an engineering report certifying the stability of the side slope. Any retaining structures used to stabilize cut or fill sections must be designed by a registered professional engineer.

Benching of side slopes shall be used sparingly and only where justified by sound engineering reasons, such as:

- I. unstable material renders benching more economical than flattening;
- II. the need to intercept drainage in long and deep cuts; and
- III. the need to intercept and store loose material.

Where a cut or fill road slope lies outside the road right-of-way, a slope easement shall be provided of sufficient width to permit slope maintenance.

5-502 Y. Structural Section

The roadway structural section shall be designed on the basis of a qualified engineer's analysis approved by the County Engineer. At a minimum, the structural section elements shall include asphalt, roadbase, and subbase of the depths shown in Figures 5-1A through 5-1F.

5-502 Z. Flexible Pavement Design

The California Bearing Ratio Method (CBR) and the Hveem Stabilometer Method may be used. Supporting test data and calculations shall accompany all requests for approval of a designed structural section.

I. The Hveem Stabilometer Method procedure of the California DOT, or as outlined in the CDOT Roadway Design Manual, may be used. The specific regional factors for San Miguel County are:

- a. annual precipitation: 0.5
- b. elevation: up to 9,500 feet - 1.0
 over 9,500 feet - 1.5
- c. local drainage: very poor - 2.0
 poor - 1.0
 fair - 0.5
 good - 0.25

The required factor used shall be the sum of the three factors selected.

II. The California Bearing Ratio Test shall be performed in accordance with the procedures outlined under AASHTO Designation T193-721.

Regardless of the pavement design method, special consideration shall be given for unusual conditions such as instability of fills and slopes, permeability, capillary and frost heave, elasticity, and permafrost.

5-502 AA. Drainage

The primary objective of drainage design is protection of County roads and property while minimizing possible flood damage to surrounding properties and structures. It should be emphasized that good drainage is one of the most important factors in road design. It preserves appearance as well as the level of road service, while minimizing maintenance costs. Culverts under all roads shall be designed to accommodate 25-year-frequency-storm run-off utilizing the maximum head, as determined by the upper-most ponding elevation chosen to prevent flood damage to upstream properties. Inlets and other facilities draining the road surface shall be designed to accommodate 10-year frequency storm run-off. All roads shall be designed to remain free of ponding.

All drainage installations shall be designed to permit free, unobstructed passage of debris and silt, or to provide for their deflection and/or collection at a point upstream in a manner that will not create an expensive maintenance problem. Settlement basins shall be provided when a silting problem may exist downstream. Modification of natural channels or transfer of run-off from one basin to another shall be prohibited, except where no reasonable alternative exists as determined by the County Engineer. The following methods may be used for estimating peak flows:

I. Run-off from stream records;

- II. Soil Conservation Service Method, applicable to watersheds smaller than 1,000 acres, expresses run-off in terms of geographical position, drainage areas and land use (See CDOT Roadway Design Manual);
- III. Rational Method, applicable to watersheds smaller than 200 acres, uses the formula:

$$Q = CiAd,$$

where

$$Q = \text{run-off, ft}^3/\text{sec},$$

$$C = \text{a "run-off" coefficient, expressing the ratio of rate of run-off to rate of rainfall,}$$

$$I = \text{intensity of rainfall, in/hr, for a duration equal to the time of concentration, and}$$

$$Ad = \text{drainage area in acres.}$$

The following table establishes coefficients for the rational formula. Rainfall intensity is obtained from records of nearby weather stations, reduced to a graph showing rainfall intensity vs. rainfall duration for various recurrence intervals. Rainfall intensity is based on estimates of the acceptable frequency of occurrence and the time required for water to reach the outlet from the most remote point in the basin.

Type of Drainage Area	C
Concrete or Bituminous Pavement	.8 - .9
Gravel Roadways	.4 - .6
Bare Earth (high values for steep slope)	.2 - .8
Turf Meadow	.1 - .4
Cultivated Fields	.2 - .4
Forest	.1 - .2

- IV. Culverts shall be located at each natural draw or watercourse, as conditions warrant, to prevent excessive accumulation of flow in roadside ditches or along toe of slope. Draws and watercourses shall be cleared of debris for a distance of 100 feet upstream from all culvert inlets, where such clearing doesn't conflict with the provisions of Section 5-22. Inverts at the inlet shall be elevated slightly above the normal flow line in steep or natural draws to avoid plugging by debris. Inlets shall not be elevated where ponding or backwater curves would cause stagnation or obstruct irrigation ditches.

The culvert shall slope downward in the direction of natural flow and be self-cleaning whenever possible. The outlet shall not discharge on unprotected fills or unstable material or at adverse angles to streams or open channels. Headwall, riprap, or other means of protection shall be required at inlets or outlets where erosion might occur. Velocities of flow in culverts shall be calculated using acceptable design charts or formulas.

Where Manning's Equation is used, the following "n" values shall apply:

Material	"n"
Corrugated Steel Pipe	.027
Reinforced Concrete Pipe	.013
Concrete (smooth-rough)	.013 to .020
Asphalt	.016

Corrugated metal pipe as specified by CDOT M 603-1 shall be used. Steel pipe shall be asphalt coated or paved where soils are corrosive or other conditions exist that may attack the steel. Aluminum and other pipe materials are not permitted for road culverts to be maintained by the County. Minimum diameter for round pipe shall be 18 inches. The minimum rise of arch pipes and box culverts shall be 12 inches. When a battery of pipes is used, a clear spacing of ½ the pipe diameter (1-foot minimum, 4-foot maximum) must be provided between pipes.

- V. Open Channels and Ditches. Channels and ditches shall be designed to avoid roadside safety hazards. The minimum flow line slope shall be 0.2 percent if the channel is paved and 0.3 percent for channels or other materials. The following table establishes the maximum permissible velocities that determine maximum allowable slopes. Greater velocities of flow shall require appropriate channel protection as determined by the County Engineer. Manning's Equation shall be used to estimate velocities:

$$v = \frac{1.486 R^{2/3} S^{1/2}}{n}$$

where v = velocity of flow in channel in feet per second;
n = roughness coefficient;
R = hydraulic radius in feet; and
S = slope in feet per foot.

Channel Material	"n"	Velocity (ft/sec)
Silt	.025	2.0
Sand	.030	2.5
Smooth, Stiff Clay	.025	4.0
Fine Gravel	.035	3.5
Coarse Gravel	.040	4.5
Small, Sharp-edges Rocks	.070	6.0
Cobbles and Shingles	.060	6.0
Shales and Hardpans	.030	6.0

Where the channel is comprised of a combination of materials shown above, the maximum permissible velocity shall prevent undue scouring of finer materials or silting downstream.

- VI. Surface Drainage. Subgrades subject to poor drainage, underground seepage, or high water table shall be adequately drained for roadbed stabilization. Drains shall be installed to prevent high ground water level from coming within 4 feet of roadway pavement. Perforated pipe shall carry away collected water.

5-502 BB. Bridges

Bridges shall conform to CDOT requirements and specifications. Plans shall be prepared by a qualified structural engineer and shall be submitted to the County Engineer for review and approval. Clear deck width must accommodate the full width of the traveled lanes and shoulders of approach roads. Pedestrian walkways and railings shall be required as warranted. Flared approach railings shall be provided on the side opposing traffic flow. The waterway area shall accommodate a 100-year frequency storm. Where flood studies from the U.S. Army Corps of Engineers are available, bridges shall be designed to accommodate the "Standard Project Flood." A minimum of 1 foot of freeboard shall be required. Additional freeboard shall be required when debris-laden flows are anticipated.

5-502 CC. Traffic Control Devices

All signs, striping, markers, delineators, signals, and other traffic control devices shall conform to the requirements of the Manual on Uniform Traffic Control Devices published by the U.S. DOT Federal Highway Administration. In new developments, all required street sign names, speed limit signs, stop signs and other traffic control devices shall be installed and paid for by the developer. Non-standard signs or other traffic control devices shall be subject to rigid State control, and approval by the County Engineer must be obtained for their use based on data to support the requests.

5-502 DD. Driveways

In addition to meeting the following standards, development of a driveway requires issuance of a Development Permit from the Building Department and, if accessed directly from a County-maintained road, a Driveway Permit from the County Road and Bridge Department. These standards shall apply to all driveways within the Telluride Fire Protection District. All driveways serving one or two single-family residences, except in the HCA Zone District, shall have:

- I. A driving surface of 16 feet or wider, which may include the shoulders on each side of the 12 foot driving surface, is preferred by the Fire Protection District. If it is not practical or feasible to design and construct a 16-foot wide driveway because of the location of the property, topography, drainage, non-negotiable grades, or if the improvement would require significant changes to the landscape, or other similar conditions, County

staff may consider and administratively authorize a reduced driveway width subject to referral of the application to the Fire Protection District. This authorization of a lesser driveway width may require installation of an approved automatic sprinkler system, driveway turnouts, implementation of measures recommended by the Wildland Urban Interface Code and/or other treatments consistent with the Fire Code regulations. The driveway should have an unobstructed height clearance of 13 feet 6 inches. (See Figure 5-11)

A Single-family Residence shall have a maximum driveway width of 20 feet.

A driveway serving two Single-family Residences shall have a maximum width of 28 feet.

- II. Interior radii of at least 32 feet;
- III. A driveway opening at least 16 feet wide;
- IV. A normal grade not to exceed 8 percent and a transitional grade not to exceed 10 percent, and not exceeding 500 feet in length is preferred by the Fire Protection District. An exception to allow a maximum grade up to 12 percent may be authorized by County staff with a referral to the Fire Protection District because of location on the property, topography resulting in extensive cut and fill or other similar conditions that make it impractical to achieve a normal and/or transitional grade. This authorization to allow a driveway to exceed normal and/or transitional grades may require installation of an approved automatic sprinkler system or other measures recommended by the Fire Protection District.
- V. All entrances and exits located and constructed such that vehicles approaching or using them will be able to obtain adequate sight distance in both directions along the roadway necessary to maneuver safely and without interfering with roadway traffic;
- VI. An angle of approach from the adjacent roadway of between 60 and 90 degrees;
- VII. An entrance/exit approach grade that slopes downward and away from the road surface at the same rate as the normal shoulder slope, but in no case at more than 4 percent for a distance equal to the width of the shoulder, and in no case for less than 15 feet from the pavement edge;
- VIII. No features that interfere with the drainage system of the adjacent street or roadway. The developer shall pay for and install drainage structures that will become integral parts of the existing street or roadway drainage

system, the dimensions of all which must be approved by the County Road Superintendent prior to installation;

- X. Curb treatment, as required in Section 5-502 H.; and
- XI. A turnaround if the driveway is longer than 150 feet shall be constructed in accordance with Figure 5-1H.
- XII. Driveways shall be surfaced so as to provide all-weather driving capabilities.

Access to all other residential structures shall meet the standards described for roadways.

5-502 EE. Landscaping

Revegetation and reforestation within road right-of-way shall be required utilizing native material, and shall be completed during the first planting season after construction. All areas disturbed by construction operations and not otherwise covered by structures or pavement shall be seeded, fertilized, mulched, planted, and otherwise treated to provide an established stand of native grass. Cut and fill slopes shall be treated to prevent erosion. Areas undisturbed by construction shall be left in their present vegetative state, except that thinning of trees may be required. Rights-of-way shall be cleared to the minimum width necessary to construct the roadway, provide for drainage, and provide adequate snow storage.

5-502 FF. Guardrail

Guardrail shall be installed on the outside of curves as required in this Section or by the County Engineer to prevent accidents by delineating roadbed, reducing accident severity by deflecting vehicles into safer paths, and reducing the rate of deceleration in case of impending collisions with fixed objects. When guardrail is used in conjunction with roadside curb, the face of the guardrail shall be flush with the face of the curb regardless of shoulder width to prevent the take-off ramp effect, which may overturn a vehicle. When no curb is present, the face of the guardrail shall be flush with the edge of the shoulder.

- I. On curves requiring a reduction in approach speeds, any of the following conditions shall indicate that guardrail installation may be required on the outside of curves:
 - a. Height of embankment exceeds 10 feet;
 - b. Side slopes exceed 4:1;
 - c. Shoulder or pavement widths are substandard;

d. Roadside hazards exist.

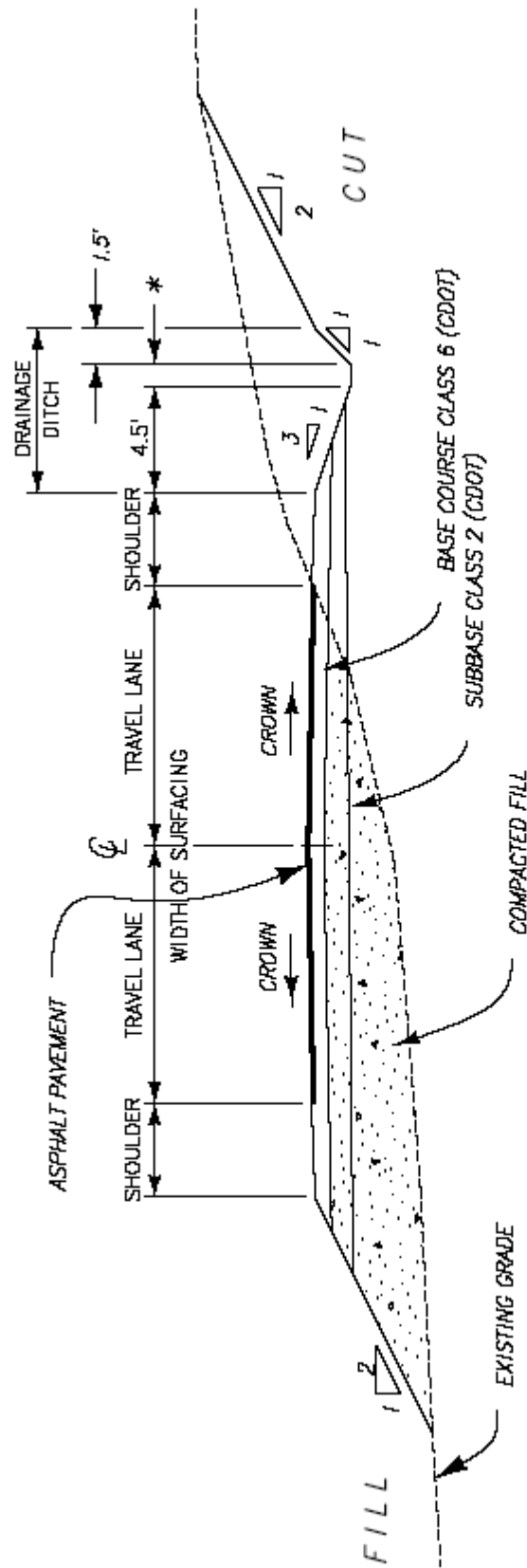
- II. Whether on curves or tangents, guardrail may be required if a history of roadway accidents exists or if unusually high embankments or steep terrain give motorists a feeling of insecurity.
- III. In areas subject to dense fog or snow and ice conditions, or where traffic speed and volumes are high, guardrail may be required.
- IV. An obstruction or sudden constriction on width may require guardrail.
- V. An isolated sharp curve on a road otherwise built to higher standards may require guardrail.
- VI. Guardrail may be required at approaches to bridge piers, abutments, trees, or other obstructions.
- VII. Guardrail shall be placed at the ends of all bridges on the right of approaching traffic. Where pedestrians are expected to use a shoulder, a walkway shall be provided around the end of the guardrail outside the normal shoulder.

5-502 GG. Utilities

At least 18 inches of material shall cover all underground utilities beneath paved roadway, and poles shall be used jointly wherever practical. All utilities must be installed below existing and planned drainage structures, and all gas lines installed in non-paved rights-of-way shall be buried at least 48" and outside the driving surface. Certain facilities may require additional right-of-way, as determined by the County Road Superintendent, paid for by the utility company and/or the developer. A sequence of installation from the deepest utility to the shallowest shall be required.

5-502 HH. Street Names, Addressing and Sign Locations

This section establishes land use standards for street names, addressing and sign locations adopted by San Miguel County (refer to Appendix B for standards). These Standards shall apply to all lands within the unincorporated areas of San Miguel County and any incorporated areas included through intergovernmental agreement.

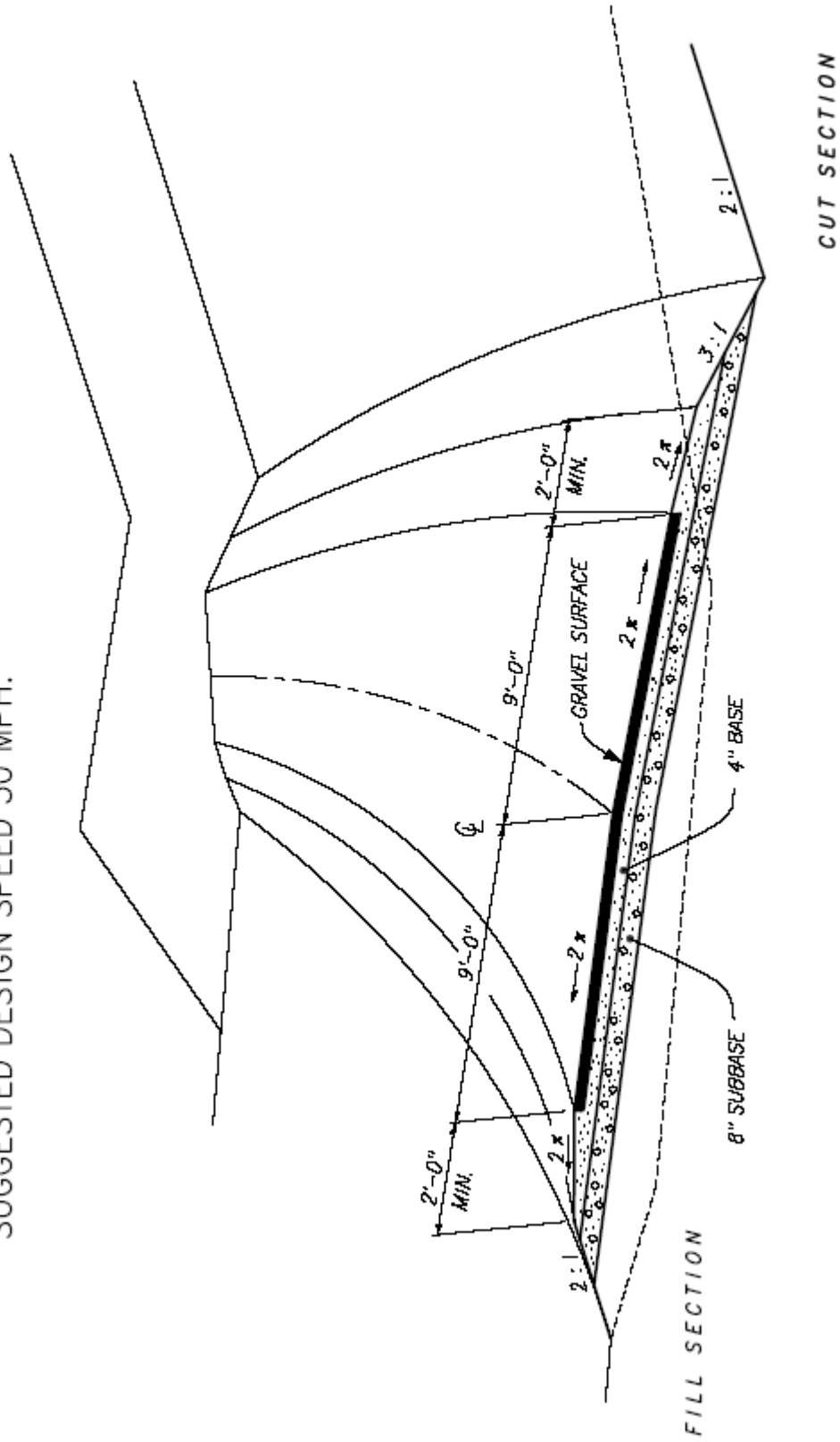


TYPICAL ROADWAY CROSS-SECTION

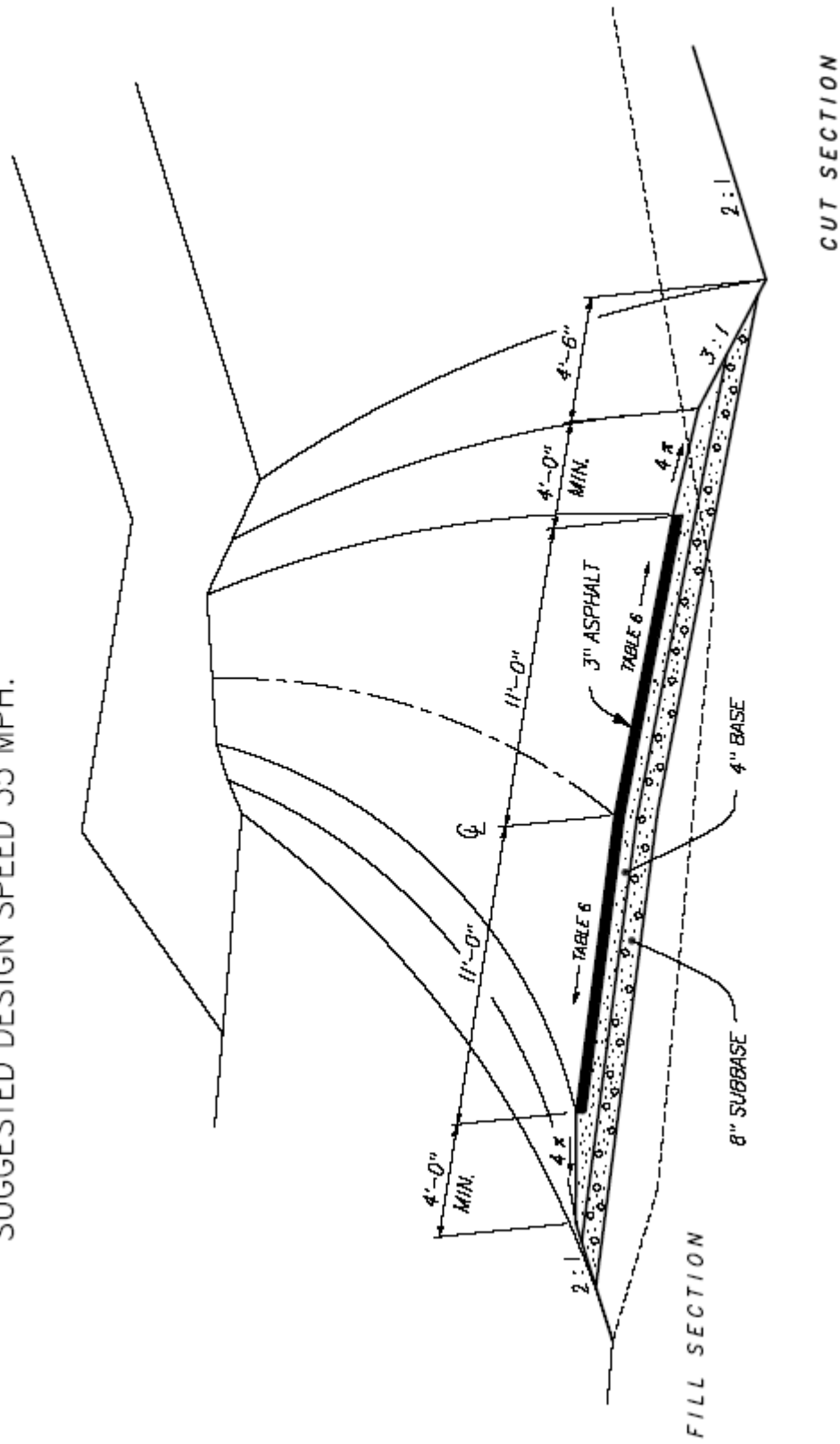
* - DIMENSION DEPENDENT UPON DRAINAGE CAPACITY

FIGURE 5-1A

MINIMUM RIGHT-OF-WAY 50'
 DESIGN CAPACITY 150 ADT.
 SUGGESTED DESIGN SPEED 30 MPH.



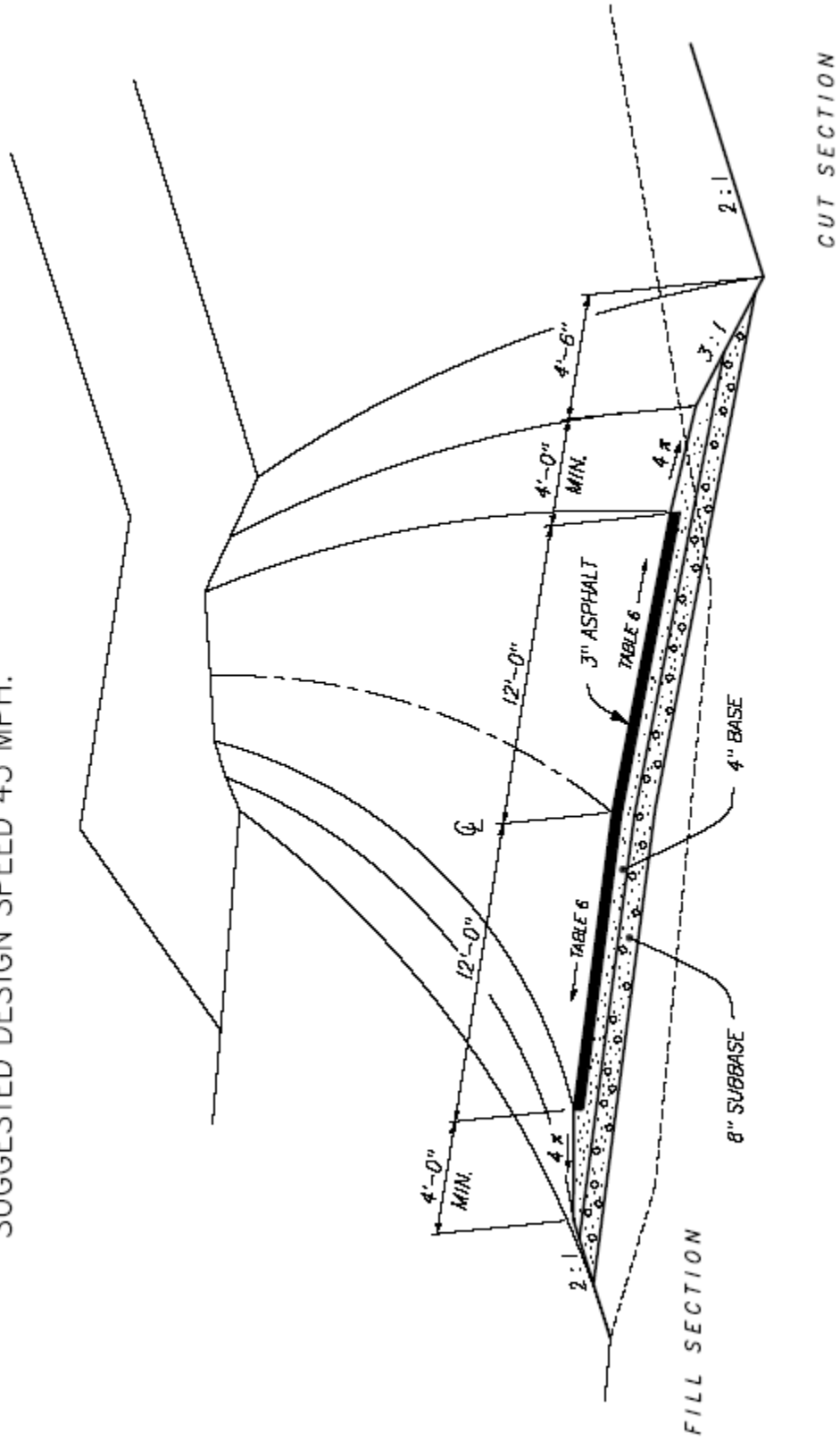
MINIMUM RIGHT-OF-WAY 50'
 DESIGN CAPACITY 500 ADT.
 SUGGESTED DESIGN SPEED 35 MPH.



LOCAL ACCESS

FIGURE 5-1C

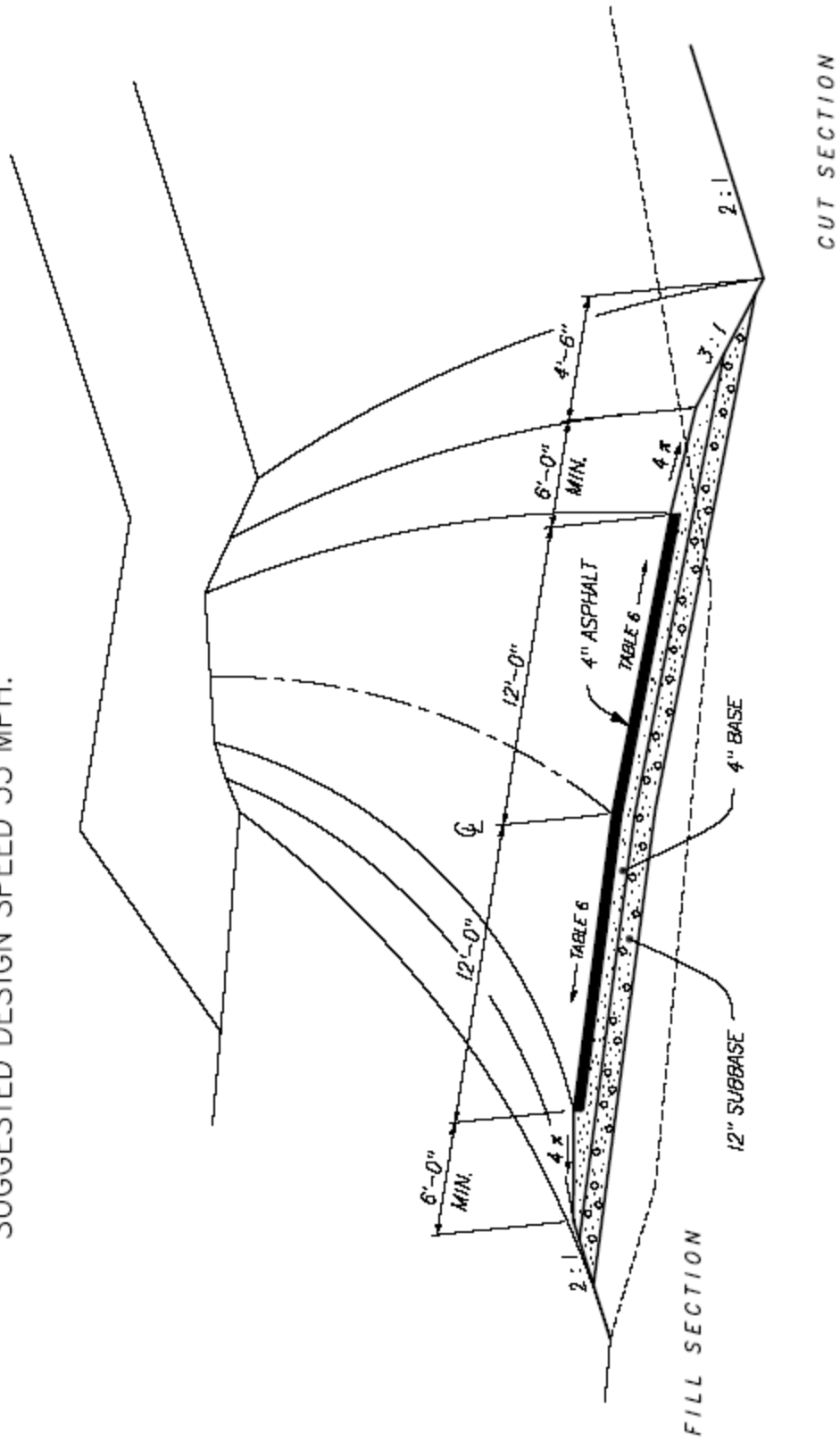
MINIMUM RIGHT-OF-WAY 60'
 DESIGN CAPACITY 1500 ADT.
 SUGGESTED DESIGN SPEED 45 MPH.



COLLECTOR

FIGURE 5-ID

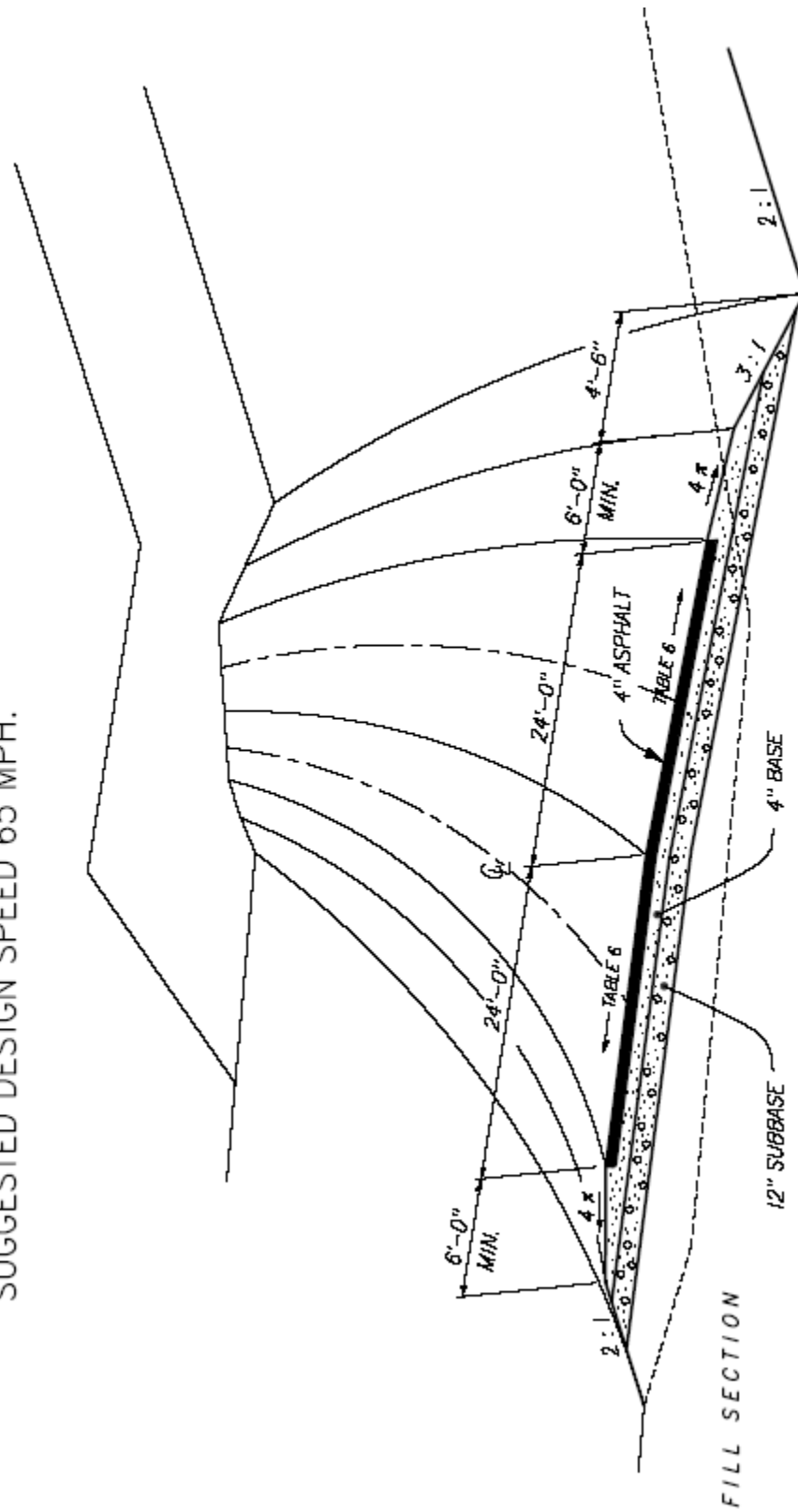
MINIMUM RIGHT-OF-WAY 80'
 DESIGN CAPACITY 4400 ADT.
 SUGGESTED DESIGN SPEED 55 MPH.



MINOR ARTERIAL

FIGURE 5-1E

MINIMUM RIGHT-OF-WAY 100'
 DESIGN CAPACITY 10,000 ADT.
 SUGGESTED DESIGN SPEED 65 MPH.

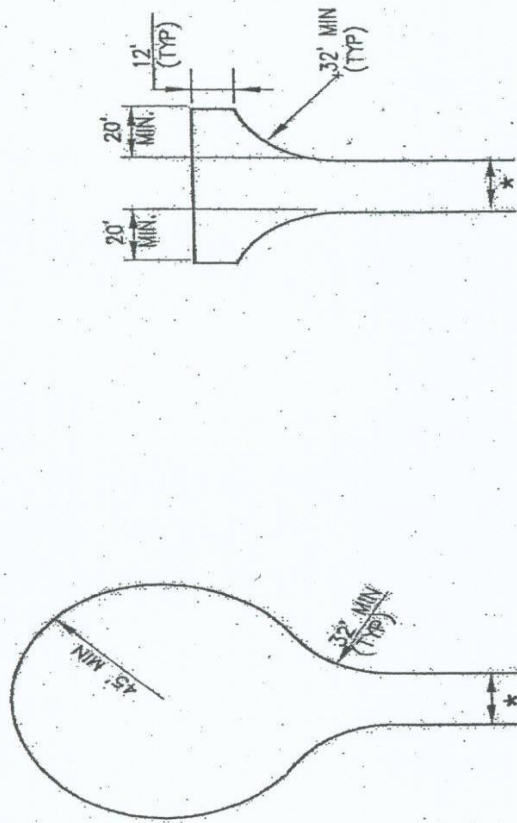


PRINCIPAL ARTERIAL

FIGURE 5-IF

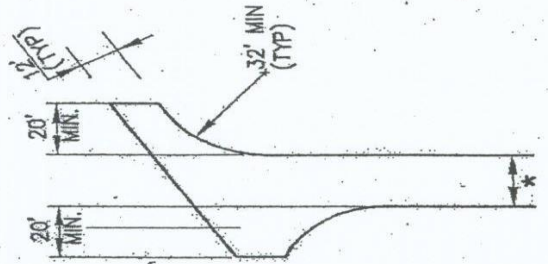
SUMMARY OF VALUES OF ROADWAY PHYSICAL ELEMENTS FOR VARIOUS DESIGN SPEEDS												
Design Speed Limit Will Be Less	Minimum Stopping Sight Distance	Minimum Passing Sight Distance	Minimum Width of Surface	Useable Shoulder	Suggested Radii	Normal Cross-Slope (Crown) Feet/Foot	Maximum Grade Percent Terrain Type	Clear Roadway Width for New and Reconstructed Bridges	Minimum Capacity for Existing Bridges	Minimum Bridge Width (Existing)	**Cl. Horizontal Distance to Obstacle	*** Int. Sight Distance
15	150'	----	16'	2'	100'	Low Type Surface .02-.04	Level 8 Rolling 8 *Mountainous 10	Pavement Width +4'	H-15	20'	10'	200'
20	150'	----	16' or 22'	2'	100'	Low Type Surface .02-.04	Level 8 Rolling 8 *Mountainous 10	Pavement Width +4'	H-15	20'	10'	200'
25 Interpolated	175'	----	16' or 22'	2' - 4'	175'		Level 7 Rolling 8 *Mountainous 9	Pavement Width +5'	H-15	22'	10'	250'
30	200'	1000'	16' or 22'	2' - 4'	250'	Intermediate Surface* .015 - .03	Level 6 Rolling 7 *Mountainous 8	Pavement Width +6'	H-15	22'	10'	300'
33 Interpolated	240'	1300'	22'	4' - 6'	380'		Level 5 Rolling 5 *Mountainous 8	Pavement Width +6'	H-15	24'	10'	350'
40	275'	1500'	24'	4' - 6'	510'	High Type Surface* .015 - .02	Level 4 Rolling 5 *Mountainous 7	Pavement Width +6'	H-15	24'	16'	400'
45 Interpolated	310'	1700'	24'	6' - 8'	670'		Level 4 Rolling 5 *Mountainous 7	Pavement Width +6'	H-15	30'	16'	450'
50	350'	1800'	24'	8'	830'	.01 - .02	Level 3 Rolling 4 *Mountainous 6	Pavement Width +6'	H-20	30'	18'	500'
NOTES: * Grade shall be reduced to zero at apex of curve less than 150' or install guard rail 100' past apex. **Clear horizontal distance to obstruction. ***Intersection sight distance.												
SOURCE: American Association of State Highway and Transportation Officials - A Policy on Geometric Design for Rural Highways: 1955, as modified by San Miguel County.												

TFPD FIRE PREVENTION TURN AROUND STANDARDS
1" = 50'



CUL-DE-SAC TURN AROUND

90° HAMMER HEAD TURN AROUND

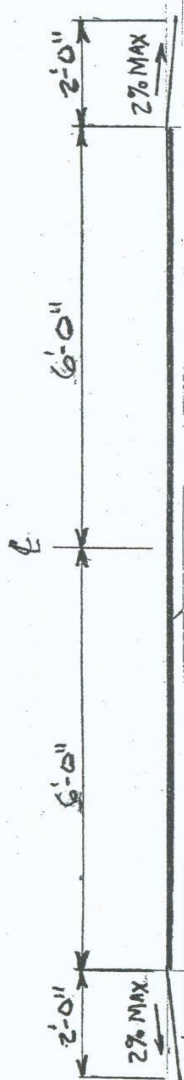


Y-TYPE TURN AROUND

ANGLED HAMMER HEAD TURN AROUND

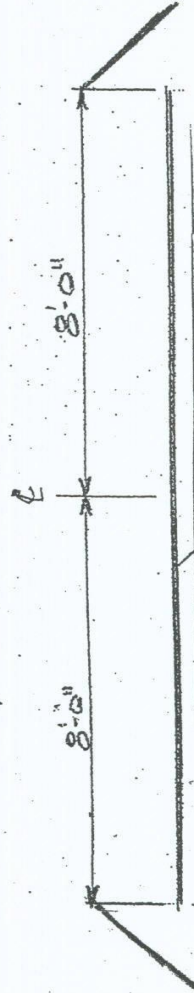
* All roads are 20' min and driveways 16' min in width

DRIVEWAY CROSS SECTION



GRAVEL OR OTHER ALL WEATHER DRIVE SURFACE
SHOULDER MAY BE OF NATIVE MATERIAL AND MUST BE COMPACTED TO PROVIDE ALL-WEATHER DRIVING SURFACE

ALTERNATIVE DRIVEWAY CROSS SECTION



GRAVEL OR OTHER ALL WEATHER DRIVE SURFACE

DRIVEWAY CROSS SECTIONS TELLURIDE FIRE PROTECTION DISTRICT (For areas within the Telluride Fire Protection District)

FIGURE 5-11

5-503 Alleys and Easements

5-503 A. Where Required

Alleys may be required in the rear of all prospective business property, except where topography makes the use of alleys impracticable.

B. Minimum Width

Alleys shall not be less than twenty feet wide.

C. Alley Intersections

Where two alleys intersect, ten-foot corner cut-offs measured along the produced property lines from the point of intersection shall be provided.

D. Public Utilities Easements

Public utility easements ten feet wide may be required along the rear and sides of lots where necessary for the accommodation of public utility, drainage and/or sanitary facilities.

E. Pedestrian Ways

Pedestrian ways may be required across long blocks or where necessary to provide access to public areas.

5-504 Road Acceptance

A. Road Acceptance Signs

When road construction begins, the subdivider or developer shall post at each entrance to the subdivision a sign that states that the roads within that subdivision have not been accepted by the County for maintenance. Such signs shall remain posted until the County accepts the roads for maintenance. The signs shall be obtained from the County at reasonable cost to the subdivider.

B. Subdivision Roads Acceptance

All of the standards in this section shall be met before subdivision roads will be accepted onto the County system for maintenance (snowplowing and grading). The Board shall determine road acceptance with no recommendation required from the Planning Commission.

I. The County will only accept roads for maintenance when the costs

incurred in providing the maintenance service are less than or equal to the revenues received into the Road and Bridge Fund and attributable to properties serviced by the road proposed for acceptance.

- a. Revenue shall mean, for the purpose of this section, the sum of the average County Highway User Tax Fund per mile and the total revenue from the Road and Bridge Mill Levy attributed to the property served by the road in question.
- II. All roads must be properly and legally dedicated to the public use for road purposes.
- III. All roads must connect with a County primary road, a County secondary road or a State maintained highway.
- IV. All roads must meet all County engineering specifications in force at the time of construction, including, but not limited to, right-of way width, roadway and shoulder width, roadway structural section, alignment, grade, adequate and proper drainage and other pertinent subdivision requirements.
- V. All required or desired underground utilities to be located within the improved portion of the road right-of-way, including laterals and services, shall be in place and complete prior to acceptance.
- VI. Acceptance of roads for County maintenance shall mean that the County will only remove snow and ice, maintain ditches, and repair paved roadways. The County will not be obligated as a result of having accepted a road or having agreed to "maintain" a road, to improve, reconstruct, resurface or rebuild roads, but, at the sole discretion of the Board of County Commissioners, the County may improve, reconstruct, resurface or rebuild a road or a portion thereof.
- VII. No road shall be accepted less than two years after the completion of the road in question.
- VIII. The County will not accept roads from October 15th through May 15th of each year due to the fact that deficiencies noted in inspections cannot usually be corrected during this period.
- IX. The applicant shall provide all required information in verifiable form to San Miguel County and its staff.
- X. If a subdivision does not meet the standard for revenue set forth above, the

Board may contract for a one-year term, subject to renewal upon mutual consent of the parties thereto, to provide maintenance with one of the following entities:

- a. Homeowners Association. Such contract shall provide for payment to the County for the difference between the cost of the desired level of service (e.g., snowplowing, blading, graveling and new equipment acquisition) and the revenue received by the County attributable to properties serviced by roads within the subdivision.
 - b. An Improvement District formed under C.R.S. 30-20-502, 30-20-601 or 30-20-701. Such contract shall provide for payment to the County of the costs of maintenance and improvements over and above revenues received.
 - c. A metropolitan District formed under C.R.S. 32-3-101, where roads are included in the approved Service Plan.
- XI If one of the entities in Section 5-504 B.X. fails to contract with the County, following notice to it that revenues received are less than the costs expended, the Board of County Commissioners shall immediately proceed to delete said roads from the County system pursuant to statute.
- XII. A resolution accepting the road onto the County road system may not be signed until an Improvement District is formed if the subdivision qualifies under Section 5-504 B.X.

5-505 Highway Setbacks

A. General

This section of the Code designates scenic highways and major highways, minimum setbacks from the highway right-of-way, standards for setback reductions and standards for lawfully created structures located within the setbacks. The purpose of the increased setbacks from scenic and major highways is to preserve the scenic quality and undisturbed, natural beauty of land located contiguous to highways in San Miguel County.

B. Scenic and Major Highways

This section designates scenic highways and major highways. The official zoning map shall reflect the designations.

I. Scenic Highways

The following sections of highways are scenic highways:

- a. State Highway 145 Spur from Society Turn to the Town of Telluride;
- b. State Highway 145 from Society Turn to Lizard Head Pass;
- c. State Highway 145 from Ellerdville to Norwood Hill; and
- d. State Highway 62 from Green Mountain Ranch to Dallas Divide.

II. Major Highways

The following sections of highway are major highways:

- a. State Highway 145 from Society Turn to Sawpit; and
- b. State Highway 62 from Placerville (intersection of State Highways 62 and 145) to Green Mountain Ranch.

C. Setbacks for Scenic and Major Highways

This section establishes the setbacks from the right-of-way line for scenic and major highways designated in Section 5-505 B.

I. Scenic Highways - 200 feet

II. Major Highways - 100 feet

D. Setback Reductions

This section establishes standards to review requests to construct a principal building within the setbacks established by Section 5-505 C. and standards for the construction of parking lots or accessory buildings within the established setbacks.

I. Setback Reductions for Principal Buildings

The setbacks may be reduced pursuant to One-step Planning Commission Review if:

- a. An applicant demonstrates that due to existing topography and/or vegetation a proposed development site has minimal visibility from the relevant highway right-of-way;
- b. A previously approved subdivision lot or legal parcel is located entirely or substantially within the setbacks established by these regulations. In such a case a building envelope shall be established in the least visible and most reasonable location within the lot and shall necessitate such landscaping and design mitigation as deemed appropriate to preserve the scenic quality of the highway frontage;
- c. An applicant owning or controlling both sides of a given right-of-way demonstrates that the intent and purpose of the minimum setback standards could best be achieved by a decreased setback on one side of the right-of-way in exchange for a corresponding increase in the setback on the other side of the right-of-way; or
- d. An applicant demonstrates that a specific proposal is consistent with the intent and purpose of the scenic corridor highway setbacks.

II. Setback Reductions for Parking Lots and Accessory Buildings

The setbacks for parking lots and accessory buildings from the right-of-way may be reduced to 100 feet for Scenic Highways and 50 feet for major highways pursuant to One-step Planning Commission Review, if as a result of proposed scenic quality mitigation techniques such as landscaping, screening or site planning, the visual quality of the scenic corridor can be maintained.

5-506 Trails

A. Construction of Trails and Dedication of Trail Easements

A developer seeking final plat, rezoning, or any other site specific development approval shall be required by the Board of Commissioners to dedicate trail easements, pursuant to the Telluride Regional Area Master Plan and the San Miguel County Comprehensive Development Plan, extending 25 feet either side of the proposed trail centerline for construction and maintenance purposes and 10 feet either side of the proposed trail centerline for public use purposes. A developer seeking final plat or rezoning approval also must construct within two years of the date of approval all trail segments required pursuant to the Telluride Regional Area Master Plan and the San Miguel County Comprehensive Development Plan. The Board of County Commissioners, in its sole discretion, may accept an alternative right-of-way width based upon a site-specific request.

B. Trails Designed to Use

Trails in San Miguel County shall be designed specifically for hiking, bicycling, mountain bicycling, horseback riding, nordic skiing or any combination thereof. As a result, the Board of Commissioners may require any specific standards (including less restrictive standards) for a particular proposed trail, or section thereof, based on the design standards set forth in Figure 5-2 and the "Trail" definitions in Article 6.

FIGURE 5-2

Trail Design Standards

	X-Slope Range	Tread Width	Clearing		Surface Materials				Cross Slope	Max Profile	Sw'back Radius
			h.	v.	natural	gravel	asphalt	concrete			
Access	Disabled Accessible	7'	+4'	10'	No	No	Pref	Pref	<2%	5% avg. 8.33% max.	-
Hiking	Walking	10' min	+4'	10'	No	No	Pref	Pref	4%	5% avg	-
	Standard	24-36"	+4'	10'	Pref	Pref	No	No	4%	12%	2'
	Backcountry	18-24"	+3'	8'	Pref	OK	No	No	4%	12%	2'
Mtn Bike											
	Mtn single track	24-36"	+4'	10'	Pref	Pref	No	No	4%	12%	4'
	Rural double track	48-96"	+4'	10'	Pref	Pref	No	No	4%	12%	4'
Equest	Mtn single track	18-24"	+6'	10'	Pref	Pref	No	No	4%	12%	8'
	Rural double track	48-96"	+6'	10'	Pref	Pref	No	No	4%	12%	8'
Nordic											
	Single track	12"	5'	+6'	Pref	Pref	OK	OK	NA	10% desired	NA
	Double track	12"/12"	10'	+6'	Pref	Pref	OK	OK	NA	10% desired	NA
	Skate lane	8'	10'	+6'	Pref	Pref	OK	OK	NA	10% desired	NA
Road Bike											
	One way	5'	+4'	10'	No	No	Pref	Pref	2%	5% desired	35' @ 15 mph
	Two way	8'	+4'	10'	No	No	Pref	Pref	2%	5% desired	
Multi-Use											
	Urban	10'	+4'	10'	No	No	Pref	Pref	2%	5% avg	-
	Rural	24-36"	+6'	10'	Pref	Pref	OK	No	4%	12%	8'
	Mountain	24-36"	+6'	10'	Pref	Pref	No	No	4%	12%	8'

NA = Not Applicable
OK = Acceptable
Pref = Preferred
No = Not Appropriate

SECTION 5-6: SERVICES

5-601 General

This section of the Code establishes Service standards applicable to land development in San Miguel County.

5-602 Underground Utilities

A. Where feasible, all utility distribution facilities, (including, but not limited to, electric, communication and cable television lines), installed in and for the purpose of supplying service to any subdivision shall be placed underground except as follows: street lights, and equipment normally installed on the surface appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, concealed ducts and similar items.

B. The subdivider is responsible for complying with the requirements of this section, and shall make the necessary arrangements for the installation of all underground facilities, sanitary sewers and storm drains in streets, service roads, alleys or highways. Service connection for all underground utilities and sanitary sewers shall be laid to such length as will obviate the necessity for disturbing street or alley improvements when service connections thereto are made.

5-603 Power

Provision shall be made to supply electric power to all lots or units in a subdivision. Installation of natural gas lines, where such service is available, may be required at the discretion of the Planning Commission.

5-604 Solid Waste

5-604 A. Trash Hauling

- I. The developer will contract with a reliable trash company for pick-up and hauling.
- II. The cost of this service will be borne by all of the residents, shops and lodges within the development.
- III. The trash company will haul the trash to the County dumpsite, provided that the dumpsite is reasonably close to the development. If it is not, then the trash company will provide a compactor that will decrease the trash company's number of hauling trips and the gross volume of trash.
- IV. In the event no reliable trash company is willing or able to provide the

above-described service, then the developer shall provide the service to the development.

5-604 B. Impact Fees

In addition to the above provisions, the developer of land located in the R-1 School District shall mitigate the impacts created by the requirements of solid waste disposal pursuant to the following:

I Fee Rate and Time of Payment

On or before the date when final subdivision plat approval is granted by the Board of Commissioners, the developer shall tender certified funds to the Board in an amount equal to the "current trash impact rate" times the "population level" of the subdivision (see Article 6 for definitions).

II. Use of Funds or Proceeds

All funds received pursuant to this section shall be utilized by the County to mitigate impacts created by solid waste disposal.

5-605 Water Supply

5-605 A. Water Quantity

The quantity of water supplied shall be consistent with the standards in this section:

I. Domestic In-House Demands

Sufficient supply shall be provided to meet an average daily demand of the entire service area of 300 gpd (gallons per day) per residential unit or 75 gpd per capita, whichever is greater.

II. Irrigation demands

Capacity shall exist to provide a sufficient supply of water necessary to irrigate landscaping as planned.

5-605 B. Quality

Water supplies shall be treated by a method determined by the County or state health department to conform to minimum local and state requirements. Test wells may be required in the case of water supplies utilizing wells for a water source.

5-605 C. Water Source

Provisions shall be made for such domestic water supply as may be necessary to protect public health. Such water may be supplied by:

- I. Connection to a public utility, in which case a letter from the public utility company shall be submitted showing its ability to serve the proposed subdivision and containing evidence indicating that a satisfactory agreement has been entered into for the installation of such service, which shall provide water connection for each lot.
- II. Establishment of a mutual water system that has been determined by the proper health authorities to provide adequate quality and safety of the proposed supply, in which case the subdivider shall give such guarantee or shall post such bond as deemed necessary to insure installation of an adequate and safe system that would provide for water connection for each lot.
- III. Wells, springs, and other water rights showing adequate evidence that a water supply sufficient in terms of quality, quantity and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed. Such evidence may include, but shall not be limited to:
 - a. Evidence of ownership, right of acquisition of, or use of existing and proposed water rights;
 - b. Historic use and estimated yield of claimed water rights;
 - c. Amenability of existing rights to a change in use;
 - d. Evidence that public or private water owners can and will supply water to the proposed subdivision, citing the amount of water available for use within the subdivision and the feasibility of extending service to that area; and
 - e. Evidence concerning the potability of the proposed water supply for the subdivision.
- IV. Cisterns are allowed by administrative review in the WE Zone District with County Environmental Health Department approval, and must meet state public health standards. Cisterns may be approved elsewhere at the discretion of the Board of County Commissioners provided that:
 - a. There is no other feasible or reasonable water supply available;

- b. A written statement is furnished that shows proof of a potable water supply and sanitary means of delivery which meet the Colorado Department of Health standards; and
- c. The proposed cistern shall be designed for storage of potable water.

5-606 Water System

A water system shall be sized hydraulically to meet the initial and future demands of the proposed subdivision. The standards in this section are applicable.

5-606 A. Domestic and Irrigation Demands

The system shall be sized hydraulically for maximum-day-plus-fire demands or peak hour demand, whichever is greater. Maximum day demand may be assumed as 3.0 times average day demand, and maximum hour demand may be assumed to be 6.0 times average day demand unless calculations indicate otherwise and the design is approved by the County Engineer or state health department.

5-606 B. Minimum Residual Pressures

Minimum Residual Pressures shall be 40 psi (pounds per square inch) under maximum-hour demand and 20 psi if direct flow is used. The actual pressure in the supply system under the conditions specified shall be used in designing the distribution system. If future connection to a different supply system is anticipated, critical pressure in that system may be used as the starting design pressure.

5-606 C. Minimum Main Sizes

Mains shall be at least 6 inches in diameter except for short cul-de-sacs. Where the external supply or pressure is not adequate to meet requirements, additional pipe diameter, parallel or looping lines or additional storage or pumping shall be provided to meet the requirements.

5-606 D. Fire Demands

For one- and two-family dwellings not exceeding 2 stories in height, the following Needed Fire Flows (in gallons per minute), in addition to maximum day flow, shall be provided:

Distance Between Buildings	Needed Fire Flow
10' or less	1500
11-100'	1000

Maximum for other residences: 3500 gpm

For all other cases, refer to the Uniform Fire Code, Appendix 3A, Section 4, and/or to the National Fire Protection Association Standards, as administered by the appropriate Fire Protection District.

Fire demands may be met by alternate sources for pumping at the discretion of the Planning Commission and upon recommendation of the affected local Fire District Board. In such cases, the water distribution and storage system need not be sized for fire demands.

5-606 E. Treatment and Storage

New water systems shall be designed with sufficient treatment and storage for a period of six hours, or for a maximum day demand plus the required fire demand for the specified duration.

5-606 F. Quality and Materials Specifications

The Quality and Materials Specifications must be submitted for review and are subject to the approval of the County Engineer, Sanitarian or Building Official. Proposed specifications should include the following:

- I. The strength rating for distribution piping and fitting for fire flow demand that will have a minimum safety factor of four times the anticipated internal operating pressure.
- II. System design for a minimum service life of 50 years.
- III. Sufficient cover to prevent freezing.
- IV. Suitable means for flushing dead-end mains.

5-606 G. Insufficient Water Supply

In the event water is not sufficiently available as planned, necessary development approvals and/or building permits may be limited by the County according to the capacity of the supply system.

5-606 H. Up-to-Date Maps

Complete, up-to-date maps of the water system, as installed, shall be provided to the County planning department.

5-607 Sewage Disposal

Sewage disposal methods shall comply with the standards in this section in addition to the San Miguel County Sanitation Regulations.

5-607 A. Connection shall be made to a sanitary sewer when available, in which case a letter from the governing Board of the sewer system shall be submitted showing the ability of the system to handle sewage from the proposed subdivision and evidence that a satisfactory agreement has been entered into for connection to the system. If such connection is found impractical or unnecessary by the Board of County Commissioners, then:

- I. Individual or community septic tanks or other approved community disposal systems may be established, in which cases detailed plans shall be submitted to the County Sanitarian. No construction shall commence upon any such systems until they have been approved in writing by the County Sanitarian, provision has been made for future maintenance and the subdivider has given such guarantee or posted a bond as deemed necessary to insure the installation of proper facilities within the proposed subdivision; or
- II. Individual absorption systems may be established. Accordingly, minimum lot size standards may be increased in any district where percolation tests show the presence of soil incapable of handling the septic system required for the maximum population of the proposed use.

5-607 B. Engineered Sewage Disposal Systems

Whenever an engineered sewage disposal system is required by the County Sanitarian, such system shall be designed by a State of Colorado Registered Professional Engineer. The Engineer shall perform all necessary site evaluations, percolation tests and requisite associated engineering tasks and, following approval and construction and prior to use, shall certify that the system has been installed as designed.

5-608 Fire Protection

Development shall meet the fire protection standards in this section, as well as those in the Uniform Fire Code and in National Fire Protection Association Standards 1231, 1141 and 224, as administered by the appropriate Fire Protection district.

5-608 A. Fire Hydrants

Fire hydrants shall be installed in all water distribution systems, whether new or extensions of existing systems.

- I. Recommended distance between hydrants is 300 feet; maximum distance shall be 500 feet, except along transmission lines where there is no development.
- II. Each fire hydrant shall be designed to flow 500 gpm in low density areas and 1000 gpm in high density or non-residential areas. Fire flows shall be assumed to flow from hydrants or groups of hydrants that will achieve the critical pressures on the system.
- III. The minimum size of the main on which fire hydrants that will produce the critical pressure on the system are located shall be 6 inches.
- IV. All fire hydrants shall be fitted with Mueller National Standard threads (2-1/2" x 5-1/2" sleeves) unless other agreements are reached with the affected fire district.
- V. Covered hydrants may be required at the discretion of the affected fire district. Such hydrants shall be covered by wooden boxes having both an upper and lower door and shall be equipped with 150 feet of 1-1/2" hose. Design of such boxes and types of hose, reels, fittings, etc. shall be approved by the local fire district.
- VI. All fire hydrants shall be painted or identified so that they are conspicuous. They shall not be obstructed in any way that could interfere with operation.

5-608 B. Other Suction Sources for Fire Protection

Other suction sources for fire protection - streams, ponds, wells, etc. - may be considered or required, especially where the approved water supply consists of individual or small community wells.

- I. Storage capacity for pumping shall be equivalent to the estimated fire flow demand for the proposed development.
- II. All storage or alternate sources for pumping shall be readily accessible to fire district equipment and personnel and centrally located to buildings in the proposed development. Docks or dikes shall be provided in open storage ponds.

5-608 C. Land reserved for fire station sites and/or housing for fire protection equipment may be required in proposed developments which, because of size and/or location, could not be adequately serviced from existing fire stations.

5-608 D. In all cases, the requirements of the local fire district shall be met in providing fire protection to proposed developments. All applications for Final Plat Subdivision Reviews shall

include a letter of approval from the appropriate Fire Protection District, as described in Section 4-519 C.

5-608 E. Complete, up-to-date plans and records essential for the proper operation and maintenance of the fire protection system shall be made available to the appropriate fire department. These should include: Plans of the supply works including dams, intakes, wells, pipe lines, treatment plants, pumping stations, storage reservoirs and tanks; and maps of the distribution system showing mains, valves, and hydrants.

5-608 F. Impact Fees in the Telluride Fire Protection District

In addition to the above provisions, the developer of land located in the Telluride Fire Protection District shall mitigate the fire protection impacts created by the development pursuant to the following:

I. Fee Rate and Time of Payment

On or before the date when final subdivision plat approval is granted by the Board of County Commissioners, the developer shall tender certified funds to the Telluride Fire Protection District in an amount equal to 89 percent of the "current impact rate" (rounded up to the nearest dollar) times the "population level" of the subdivision (see Article 6 for definitions).

II. Use of Funds or Proceeds

All funds received pursuant to this section shall be utilized by the Telluride Fire Protection District to mitigate impacts on the District created by the development.

SECTION 5-7: IMPROVEMENTS

5-701 General

This section of the Code establishes improvement standards.

5-702 Parking

5-702 A. Parking Space Description

Each off-street parking space shall be no less than 9 feet wide, 18 feet long, and 7 feet high and shall have vehicular access to a County road, street, or alley.

5-702 B. Screening

Parking lots shall be screened and concealed from arterial highways, major roads or collector streets by earth berms or landscaping.

5-702 C. Surface and Drainage

Parking spaces shall be properly drained and surfaced.

5-702 D. Location of Parking

Required parking spaces shall be located on the same lot as the principal use, unless otherwise stipulated in a Development Plan approved pursuant to these regulations. In all cases, parking shall be provided within convenient walking distance of the principal use for which parking is required, unless adequate ground transportation is provided.

5-702 E. Off-street Parking Standards

Required off-street parking shall be provided for each use as listed in this section in all zoning districts. For all uses requiring parking space in ratio to floor area, at least one space shall be required for any use not meeting the minimum floor area standard.

I. Dwellings

Two spaces per dwelling unit.

II. Home Occupations

The standard shall be determined by the Planning Commission using surveys of similar situations and its own judgment.

III. Hotels and Motels

One space per unit plus one space per every 3 employees.

IV. Rooming and Boarding Houses

Two spaces per every three units plus one space per every 3 employees.

V. Condominiums or Lodges with Kitchen Facilities in Units

One and one-half spaces per unit plus one space per every 3 employees. If the total number of spaces ends in one-half, that number shall be rounded up.

VI. Retail Stores, Offices, Personal Services

One space per 400 square feet of floor area.

VII. Assembly Areas: churches, auditoriums, theatres, etc.

One space per 300 square feet of assembly floor area, or one space per 4 spaces of seating capacity whichever is greater.

VIII. Eating and Drinking Establishments

One space per 4 spaces of seating capacity plus one space per every 3 employees.

IX. Gasoline Stations and Auto Repair Shops

One space per gas pump; two spaces per grease rack; one space per 200 square feet of general repair area.

X. Hospitals and Schools

Spaces shall be provided on-site to satisfy the occupancy characteristics, including at last one space per every 3 employees. The standard may be altered by the Planning Commission using surveys of similar situations and its own judgment.

XI. Industrial and Manufacturing Establishments Including Mining Operations

One space per every 3 employees on two combined shifts. The standard may be altered by the Planning Commission using surveys of similar situations and its own judgment.

XII. Commercial Recreation Areas (Ski areas, golf course, tennis and swimming clubs, etc.):

Once space per 3 potential users of the facility at maximum capacity plus one space per every 3 employees. Capacity shall be related to occupancy characteristics and duration of a normal visit to the facility. The standard shall be determined by the Planning Commission using surveys of similar situations and its own judgment.

XIII. Mixed Use Developments

When a combination of uses exists on a single parcel (such as a planned unit development), the required parking shall be determined by the Planning Commission using its judgment.

XIV. Uses Not Identified

Parking space standards for uses not identified in this section shall be determined by the Planning Commission using surveys of similar situations and its own judgment.

5-702 F. Loading Space

For each use listed in Sections 5-702 E.VI., 5-702 E.VIII., and 5-702 E.XII. loading space at least 12 ft. by 30 ft. shall be provided for each 2500 sq. ft. of floor area. Loading space may be required for certain additional uses at the discretion of the Planning Commission.

5-702 G. Deviation from Guidelines

If for any reason any person feels that the requirements of these parking regulations are excessive or inadequate, he/she may seek to increase or decrease the parking standards pursuant to PUD procedure, based upon the criteria set forth in Section 5-1404 C.

5-703 Drainage and Flood Control

5-703 A. All provisions for drainage and flood control shall be established as a minimum to handle the anticipated 100-year frequency storms for maximum period of intensity over the entire drainage basin that the subdivision serves, and they shall be made in accordance with the approved improvement plan.

5-703 B. Drainage structures and ditches shall be of a size and nature sufficient to carry the calculated storm water from open drainage areas as based on standard engineering principles.

5-703 C. Where free fall of water occurs, satisfactory means shall be provided to prevent

erosion of soil. Culverts shall have concrete head walls and wing walls where conditions require.

5-703 D. Standard drop inlet catch basins shall be constructed.

5-703 E. The Planning Commission may require that improvements be designed by a Colorado registered engineer.

5-703 F. Water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. On-site waste disposal systems shall be located to avoid impairment of them, or contamination from them, during or subsequent to flooding.

5-703 G. Subdivision covenants shall prohibit the storage or processing of materials within a 100-year floodplain that at times of flooding would be buoyant, flammable, explosive or potentially injurious to human, animal or plant life. The subdivision plan must be designed to prevent substantial solid debris from being carried downstream by floodwaters.

5-704 Signs

The purpose of this section is to promote the public health, safety and welfare of the residents and visitors of San Miguel County. These provisions are intended to preserve the natural beauty of San Miguel County by regulating the type, placement and physical dimensions of signs. It is also the intent of these regulations to provide for a reasonable balance between the right to utilize signs for legitimate purposes and the public's right to be protected against visual discord resulting from the unrestricted proliferation of signs.

The goals and objectives of the San Miguel County Comprehensive Development Plan and policy 2-12 of this Land Use Code, regarding preservation of open space, scenic vistas and rural character, are better achieved through the enforcement of these regulations. The public is hereby protected from dangerous traffic hazards caused by proliferation of signs, improper placement, illumination and excessive size.

5-704 A. General

All signs located in San Miguel County shall comply with the standards in this section.

I. Exterior signs shall be permitted only as expressly authorized in these regulations.

- II. Signs shall be set back from the right-of-way a distance equal to the front yard requirement for the zoning district in which they are located or as specifically approved on the Final Development Plan of a planned unit development.
- III. Signs shall identify only interests conducted on or uses located on the lot unless the Board of County Commissioners, upon request, determines that, as a special exception, an off-site directional sign is necessary to promote the interests of the use and public safety. A permit from the State Department of Transportation must be obtained prior to installation of an advertising sign within any State Highway right-of-way. In such cases, proof that a State permit has been issued shall be required prior to issuance of a County sign permit.
- IV. Pennants, banners, and posters may be erected advertising a special civic event. Such items may be erected two weeks prior to the opening of the event advertised, and must be removed promptly following termination of the event. Banners and pennants erected under this clause may exceed the normal size limitation for temporary signs. Pennants, banners, and posters within any State Highway right-of-way must also be approved by the State Department of Transportation.
- V. Signs shall be maintained in good repair.
- VI. Signs in the Wright's Mesa (WM) Zone District shall comply with all standards in this section except:
 - a. Temporary Signs (advertising the sale or lease of parcels greater than 100 acres and/or improvements thereon). Identification Signs (other than for residential use and home occupations), Directional Signs and Advertising Signs, may be up to 32 sq. ft.
 - b. Directional Signs may be permitted through Administrative Review in accordance with Sections 3-402 and 5-704 D.IV.
 - c. Advertising Signs may advertise products not produced or sold on the premises if the signs are located on public property or a public facility for a public purpose. Multiple signs up to 32 sq. ft. may be permitted.
- VII. Signs in the West End Zone District are exempt from compliance with this section except that Directional Signs and Advertising Signs for the sale of products not produced or sold on the premises are subject to administrative review and must not be greater than 32 sq. ft.

5-704 B. Illumination

Illumination of all signs shall be in accordance with the standards in this section.

- I. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to people in surrounding areas.
- II. No sign shall have blinking, flashing or fluttering lights or other illuminating devices that have a changing light intensity, brightness or color. Beacon lights are not permitted.
- III. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- IV. Neither the direct nor reflected light from primary light sources shall create a traffic hazard to passing motorists.
- V. Gas-filled light tubes shall be allowed only when used for indirect illumination, in such a manner that light tubes are not exposed to public view.

5-704 C. Prohibited Signs

Prohibited signs are signs which:

- I. Contain statements, words, or pictures of an obscene, indecent or immoral character subject to constitutional limitations.
- II. Are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign or signal;
- III. Advertise business, activity, product or service not conducted on the premises upon which sign is located, such as billboards;
- IV. Have a moving part or are portable or wheeled;
- V. Contain or consist of ribbon streamers, strings of light bulbs, spinners, or other similarly moving devices; or
- VI. May swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment.

5-704 D. Permitted Signs

Signs listed in this section are permitted.

I. Temporary signs.

All temporary signs shall comply with the standards in this section.

- a. Purpose: to announce the sale or leasing of a property or building; public events to be held; the builder or tenant of a proposed building or property; election campaigns.
- b. Size: 6 sq. ft. per sign.
- c. Number: one for each street frontage upon which the property faces, and so placed that only one sign faces each street.
- d. Illumination: none.
- e. Time limit: three months maximum, with two renewals each of two months duration upon application, except that signs announcing sale or leasing of a property or building may remain in place for seven months and do not require any County permit, provided they meet all other applicable requirements of this Section 5-704 D.I. Once the purpose for which the sign has been erected has been fulfilled, the permit shall be deemed void.
- f. Traffic control signs erected by proper authority shall be exempt from these regulations.

II. Identification Signs.

All identification signs shall comply with the standards in this section.

- a. Such signs shall identify a residence, business or principal authorized use on the premises where the sign is located. An identification sign may be a wall sign, a projecting or a freestanding sign.
- b. A premises is limited to one identification sign per principal use unless otherwise specifically excepted in these regulations.
- c. Size: residential use and home occupations - 2 sq. ft. per sign. Other uses - 20 sq. ft. per sign.

III. Advertising Signs

All advertising signs shall comply with the standards in this section.

- a. Such signs may advertise the sale of products produced or sold on the premises where the sign is located. Window decals, posters, etc., shall be included in the area allowance for such signs.
- b. The total area of all such signs shall not exceed 20 sq. ft. in area per face or faces for each principal use.
- c. Such signs shall not be allowed for home occupation uses.

IV. Directional Signs

All directional signs shall comply with the standards in this section.

- a. Such signs shall show name, direction, and mileage and may be located adjacent to a public right-of-way. Signs within any State Highway right-of-way require a permit from the State Department of Transportation prior to issuance of a County sign permit.
- b. Directional signs will be permitted only when authorized by the Board of County Commissioners, upon determination that, as a special exemption, the same are necessary or convenient to the traveling public to locate distinctive objects, businesses or land uses.
- c. Permits for directional signs shall not be issued where such requirements are served by a sign installation provided by the State or County.
- d. Directional signs shall not exceed 6 sq. ft. in area per sign and must conform to design standards set by the Board of County Commissioners. No more than two such off-site signs per principal use may be allowed.
- e. No sign shall be allowed that prevents the driver of a vehicle from maintaining a clear and unobstructed view of official signs and approaching or merging traffic.

V. Noncommercial Signs

All signs not specifically listed above and announcing the noncommercial and/or ideological views or opinions of the owner of a property shall comply with the standards in this section.

- a. Size: 6 sq. ft. per sign.
- b. Number: one for each street frontage upon which the property faces, and so placed that only one sign faces each street. Such signs may contain more than one message.
- c. Illumination: none.

5-704 E. Structural Characteristics

The structural characteristics of signs shall comply with the standards of this section.

- I. Free-standing signs shall not exceed 12 feet in height; and shall be a minimum of 8 feet above grade when located adjacent to or projecting over a pedestrian way and larger than two 2 sq. ft. in area. Each freestanding sign may have two faces, each with the maximum area allowed under Section 5-704 D., provided the two faces are the same size and join back-to-back without any overlap.
- II. Projecting Signs shall not be higher than the eave line or parapet wall of the principal building and shall be a minimum of 8 feet above grade when located adjacent to or projecting over a pedestrian way; shall not extend more than 4 feet from the building wall except where such a sign is an integral part of an approved canopy or awning.
- III. Wall Signs shall not be higher than the eave line or parapet wall of the principal building and no sign part, including cutout letters, shall project more than 12 inches from the building wall.

5-704 F. Permits

- I. It shall be unlawful to erect, construct, reconstruct, alter, paint, or repaint, or change the use of any sign as defined in this section without first obtaining a sign permit; however, a sign permit shall not be required to repaint a sign exactly as it was permitted for the purpose of maintenance.
- II. For all sign permits required, a fee of one dollar per square foot of surface area shall be charged to cover the costs of administration.
- III. Off-premise advertising signs within any State Highway right-of-way require a permit from the State Department of Transportation, proof of which must be furnished to the County prior to issuance of a County sign permit. An applicant must obtain conditional approval for such a sign from the County prior to applying for a permit from the State.

5-705 Lots

5-705 A. Minimum Frontage

Lots shall have a minimum frontage on a street equal to the minimum lot width.

5-705 B. Side Lines

Side lines of lots shall be as near as possible to right angles to the street line upon which the lot faces.

5-705 C. Double Frontage Lots

Lots other than corner lots having double frontage with depths of less than 200 feet will not be approved except where necessitated by topographic or other physical conditions, or where ingress or egress to and from one of the streets is prohibited.

5-706 Monuments

5-706 A. Monumenting

- I. In making a survey, the surveyor shall monument all corners, angle points and curve points in the exterior boundary of the subdivision; all lot corners, angle points and curve points within the interior of the subdivision; and all angle points and curve points in the right of way lines of all streets, alleys, easements or other lands to be dedicated for public use.
- II. Monuments shall not be less substantial than 5/8-inch iron pins 18 inches long driven to a depth of 16 inches. Affixed to the monument shall be a metal tag stamped with the registration number of the surveyor.

5-706 B. Inspection and Installation

All monuments shall be subject to the inspection and approval of an authorized representative of the Board of County Commissioners and shall be either installed prior to recording of the final plat or included as part of the work to be completed under the agreement and improvement bond required in Section 5-902.

5-707 Landscaping

5-707 A. The Planning Commission may require the planting of trees and other plant material where natural trees or vegetation are destroyed by grading or other construction work, or where existing vegetation is inadequate to mitigate visual impacts of development.

5-707 B. All existing trees to be preserved, as determined by the action on the preliminary plan, shall be clearly marked prior to any grading or construction work. All existing trees to be preserved shall be protected from damage.

5-707 C. All slash materials, vegetative residues, fallen trees, limbs, roots, etc., shall be removed from the development, or, in the case of large limbs and trees, may be cut for fire wood and stacked at appropriate locations.

5-707 D. Substantial disturbances of the land created by construction of structures, roads, water, or sewer facilities, drainage control systems, installation of utilities or other improvements shall be restored by reseeding and/or revegetation of the affected area with native plant materials or appropriate substitutes.

5-708 Filled Lands

Required fill shall be of suitable filling material and placed in such a manner as to insure that the finished elevation of all lots and roadway areas will be adequate to protect the subdivision from flooding and to provide adequately for the passage of storm water run-off after settlement and compaction. No building or construction on filled land shall be commenced until satisfactory evidence has been submitted that the required elevation has been obtained and that the fill will provide a stable base for the construction proposed. Such evidence of satisfactory fill shall be submitted to the Board of County Commissioners, and the approval for construction of improvements upon said fill shall be granted by the County road supervisor.

5-709 Public Utilities Structures and Electricity Transmission and Distribution Lines

All public utility structures and electricity transmission lines more than 115 kilovolts shall comply with the standards in this section. Additionally, all above ground electricity transmission or distribution lines in excess of 1,000 linear feet in length in San Miguel County are subject to compliance with the standards in this section. These standards do not apply to the normal construction of local service natural gas lines.

5-709 A. The proposed development poses no significant threat to the health, welfare and safety of the citizens of San Miguel County or the citizens of the region.

5-709 B. Construction and operation of the facility will not unreasonably impact the physical, economic, or social environment of San Miguel County or this region, including agricultural land and water.

5-709 C. Adverse impacts to the County and/or region have been identified, and the applicant has presented a satisfactory program of mitigation, including assurances of implementation.

5-709 D. Alternative sites and routes and methods to reduce the impact to the land such as combining new lines with existing lines, placing new lines underground, etc., have been identified and approved by the San Miguel County Board of County Commissioners.

5-709 E. All costs associated with the construction of new distribution lines, including any costs resulting from mitigation of visual impacts, shall be paid by the utility provider and/or the individual property owners who will connect to the new lines.

5-709 F. The benefits of the development outweigh the unavoidable and unmitigatable impacts upon the physical, social, and economic environment of San Miguel County and this region.

5-709 G. Proposed uses in Airport Reservations shall be for use by the facility and these and any other allowed facility shall meet the navigable airspace requirements of AC No. 70-7460-2-E, dated 7/5/73 and issued by the U.S. Federal Aviation Administration, Department of Commerce, as may be amended.

5-709 H. All proposed above ground extensions are routed wherever possible to:

- I. Avoid paralleling of major transportation routes;
- II. Cross any transportation route at as close to a right angle as possible;
- III. Avoid "tunnel" effect of clearing areas visible from a population concentration or major transportation route;
- IV. Avoid clear-stripping of right-of-way;
- V. Avoid corrosive soils;
- VI. Avoid creation of access way scars visible as above;
- VII. Avoid historic and archaeological sites; natural phenomenon;
- VIII. Avoid impact on wildlife and wildlife habitat;
- IX. Preserve as much as possible the natural landscape;
- X. Minimize conflict with existing and planned uses shown on the County Master Plan Map;
- XI. Maximize the natural screening potential of vegetation and topography;
and
- XII. Avoid crossing or use interference with a fishery.

5-709 I. All proposed extensions of central service plant whose curvature, grade or other constraint inherent in such facility tends to require alignment along valley floors or public ways, shall avoid impacts listed in C. above; provide for recompaction to restore the original density of disturbed irrigated ground; provide for restoration of the original slope of hillsides and ridge cuts; and by innovative construction techniques minimize the width of clearing and cuts, including those required for installation of normally buried facilities above ground where such might be less disturbing to the sum of criteria of this plan.

5-709 J. These regulations shall not apply to the normal construction of individual telephone subscriber service, distribution and feeder cables, including the delivery of cable television, toll service, and extended area service telephone lines.

5-709 K. Approval shall not be considered until such time as the Public Utilities Commission has granted a Certificate of Public Necessity and Convenience, if such Certificate is required from the Public Utilities Commission.

SECTION 5-8: DEDICATIONS

5-801 General

This section of the Code establishes dedication standards.

5-802 Surface and Storm Waters

A subdivider shall dedicate a right-of-way for storm drainage purposes substantially conforming to the lines of any natural watercourse or channel, stream or creek that traverses the subdivision.

5-803 Parks and Public Areas

The County shall require adequate provisions for suitable areas for parks, playgrounds, schools and other public building sites, as well as for such measures that preserve and enhance the scenic values of the County and the conditions making for excellence of residential, commercial or industrial development. Such provision shall not be construed as an obligation on the part of the County to maintain such park or playground areas.

5-804 School Land Dedication Requirements

5-804 A. Condition of Final Approval

The Board of County Commissioners shall require as a condition of approval of a final subdivision plat the dedication of land, cash payment in lieu of land or a combination of land and cash, for the purpose of acquiring land for school sites to serve the proposed subdivision and future residents thereof.

5-804 B. Method of Land Dedication

Dedication requirements shall be accomplished by dedicating to the County land, by a duly recorded legal instrument, upon final plat approval, in accordance with the limitations, principles and standards of this section.

- I. The land dedicated is to be used only for the purposes of providing school sites or funding growth-related planning functions by school districts for education purposes.
- II. All fees paid or land dedicated shall be held in trust by the County, to be administered by the Board of County Commissioners, for the acquisition of school sites or for funding growth-related planning functions by school districts for education purposes.

5-804 C. Suitability and Function of Dedicated Land

The location, topography, environmental characteristics and development potential of land to be dedicated for school purposes must be deemed suitable by the Board of County Commissioners.

5-804 D. Access and Utility Requirements

All lands to be dedicated must have access via a minimum 50-foot public right-of-way and also must accommodate connection of all utilities necessary to operate the dedicated land as a school site.

5-804 E. Amount of Land to be Dedicated

At the time and place of the signing of the final subdivision plat, the person seeking final plat approval shall deed to the Board of County Commissioners lands for school sites and facilities in accordance with the following schedule:

Dwelling Type	Land Dedication (Sq. Ft.)
Single-Family	524
Condominium, Detached	524
Condominium, Attached	224
Duplex	224
Multi-Family	224
Mobile Home	224

5-804 F. Cash in Lieu of Land

- I. With the approval of the Board of County Commissioners, the developer may pay cash in lieu of the land dedication required in Section 5-804 E.
- II. All fees paid shall be held in trust by the County, to be administered by the Board of County Commissioners, for the purpose of acquiring land for school sites to serve the proposed subdivision and future residents thereof.
- III. The appraised value of the land shall be determined by a qualified appraiser chosen by the Board of County Commissioners and paid by the developer; or the appraised value of the land may be determined by mutual agreement between the Board of County Commissioners and the person seeking subdivision approval.
- IV. For purposes of calculating land value, land shall be given its current market value without improvements, except site improvements (including curb, gutter, street sidewalk and utilities) installed and in place at the time of filing of the application for preliminary subdivision approval. Market

value may be substantiated by a documented purchase price (of an arm's length transaction no more than one year old) or by any other recognized means, provided, however that assessed valuation shall not be relied on as evidence of current market value.

5-804 G. Recalculation of Deferred Land Dedication Requirements

If land dedication requirements for developments approved prior to Feb. 10, 1993 were deferred, the amount of the required dedication shall be recalculated prior to the acceptance of the land dedication that was deferred. The recalculated dedication amount shall be based on the dedication standards of Section 5-804 E.

5-804 H. Credit for Past Excess Land Dedications

Credit for past excess land dedications shall be due to the individual who made the dedication or paid cash in-lieu of the dedication; it shall not run with the land. Credit shall be given for land dedications made by a developer prior to Feb. 10, 1993 if the amount of such dedication was based on land dedication standards in excess of those required by Section 5-804 E. The amount of credit due as a result of excess land dedication shall be determined by subtracting the land dedication required pursuant to Section 5-804 E. from the land dedication made by the developer and accepted by the Board of County Commissioners on behalf of the Telluride R-1 School District Board prior to Feb. 10, 1993. The basis for this calculation shall be the cumulative total land dedication for all filings in the subdivision or PUD.

Excess Land Dedication Credit	=	Previous Land Dedication	-	Land Dedication Required by Sec. 5-804.E
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I. Form of Credit

Credit for excess land dedication shall be provided in the form of certificate entitling the owner of the development who made the excess dedication to (1) a proportionate reduction in land dedication requirements for future subdivision filings or (2) a refund of excess cash in-lieu payments, if any.

II. Transfer of Credit

Credits may be transferred to other projects and/ or other project owners by filing a transfer of credit application with the County Planning Director.

III. Notice of Credit Availability

When the right to a credit for excess land dedication exists, the County shall provide written notice of entitlement to a credit to the individual who made the land dedication at the address shown on the subdivision plat application or to the individual's successor in interest who has given notice to the County of a legal property transfer or assignment of the right to entitlement to a credit and who has provided the County Planning Office with a mailing address. Such notice from the County shall be provided within ninety (90) days of the date that it has been determined that the right to a credit exists.

IV. Waiver and Expiration of Credit

An application for excess land dedication credit shall be made in writing to the County Planning Office within two (2) years of the date that notice of entitlement to a credit is provided by the County Planning Director. A credit not applied for within that time period shall be deemed waived. Credits granted in the form of certificate of excess land dedication credit shall be used within eight (8) years of the date of issuance, unless an extension of time for use of credits is granted by the Board of County Commissioners, for good cause shown.

5-805 Public Park Dedication Requirements

5-805 A. Condition of Final Approval

The Board of County Commissioners shall require as a condition of approval of a final subdivision plat the dedication of land, cash payment in lieu of land or a combination of land and cash, for the purpose of acquiring land for active and passive park, recreation and trail purposes or for capital improvements to any park and recreational lands or trail system to serve the proposed subdivision and future residents thereof.

5-805 B. Method of Land Dedication

Dedication requirements shall be accomplished by dedicating to the County land, by a duly recorded legal instrument, upon final plat approval, in accordance with the limitations, principles and standards of this section.

- I. The land dedicated is to be used only for the purpose of providing public park and recreation sites and facilities.
- II. All fees paid or land dedicated shall be held in trust by the County, to be administered by the Board of County Commissioners, for the acquisition of sites and land areas reasonably necessitated by the proposed subdivision

or for capital outlay supporting parks, including the development of said sites and land areas for public park purposes.

5-805 C. Suitability and Function of Dedicated Land

The location, topography, environmental characteristics and development potential of land to be dedicated for park and/or recreational purposes must be deemed suitable by the Board of County Commissioners. Such land shall function to provide recreational opportunities including, but not limited to: neighborhood parks, playgrounds, play fields, community or district parks and recreational trails in accordance with any adopted trails plan.

5-805 D. Access and Utility Requirements

Except for lands to be dedicated for public trail purposes, all lands to be dedicated must have access via a minimum 50-foot public right-of-way and also must accommodate connection of all utilities necessary to operate the dedicated land as a public park or recreation site.

5-805 E. Amount of Land to be Dedicated

At the time and place of the signing of final subdivision plat, the person seeking final plat approval shall deed to the Board of County Commissioners lands for public park and recreation facilities totaling 300 square feet times the total "population level" of the subdivision (see Article 6 for definition).

5-805 F. Cash in Lieu of Land

- I. With the approval of the Board of Commissioners, the developer may pay cash in lieu of the land dedication required in Section 5-805 E.
- II. All fees paid shall be held in trust by the County, to be administered by the Board of County Commissioners, for the acquisition of sites and land areas reasonably necessitated by the proposed subdivision or for capital outlay supporting parks, including the development of said sites and land areas for public park purposes.
- III. The appraised value of the land shall be determined by a qualified appraiser chosen by the Board of County Commissioners and paid by the developer; or the appraised value of the land may be determined by mutual agreement between the Board of County Commissioners and the person seeking subdivision approval.
- IV. For purposes of calculating land value, land shall be given its current market value without improvements, except site improvements (including curb, gutter, street sidewalk and utilities) installed and in place at the time

of filing of the application for preliminary subdivision approval. Market value may be substantiated by a documented purchase price (of an arm's length transaction no more than one year old) or by any other recognized means, provided, however that assessed valuation shall not be relied on as evidence of current market value.

SECTION 5-9: IMPROVEMENTS AGREEMENTS AND PERFORMANCE GUARANTEES

5-901 Intent

The purposes of an improvement agreement are to stipulate the:

- 5-901 A. Conditions placed on a land development;
- 5-901 B. Schedule for public and private improvements that a developer will adhere to;
- 5-901 C. Amount of collateral to be provided by a developer to insure construction of public and or private improvements; and
- 5-901 D. Conditions under which the collateral will be forfeited.

5-902 Form of Financial Guarantees

Acceptable financial guarantees include: letters of credit from a commercial bank, savings and loan institution, insurance company or other qualified lending institution licensed or authorized to do business in the State of Colorado, or a letter from the Federal Housing Administration or Veterans Administration or other forms of financial guarantees acceptable to the County Attorney and Board of County Commissioners.

5-903 Landscape Guarantee

In order to insure implementation and maintenance of a landscape plan, the Board of County Commissioners may require an applicant to provide a financial guarantee pursuant to Section 5-902 for no less than 125 percent of the current estimated cost of landscaping improvements for a development as estimated by the County Engineer. The guarantee shall be used to insure installation and continued maintenance and replacement (if necessary) of the landscaping for a period of two (2) years after installation. The agreement shall give the County the unconditional right upon demand to partially or fully complete landscaping or to pay for any improvements or any outstanding bills for work done thereon by any party.

5-904 Public Facilities Guarantee

In order to insure installation of necessary public facilities planned to accommodate a development, the Board of County Commissioners shall require an applicant to provide a financial guarantee pursuant to Section 5-902 for no less than 125 percent of the current estimated cost of such public improvements as estimated by the County Engineer.

5-905 Improvements Maintenance Agreements

All improvements intended or designated for common use by all lot owners within a subdivision and not accepted for dedication and ownership by the Board of County Commissioner for public use, including, but not limited to, streets, street signs, street resurfacing, widening, improvements and overlay curbs, gutters, curb cuts, pans, aprons, drains, drainage facilities common water and sewer systems, easements and common open space, shall be maintained in perpetuity by the subdivider or an association of homeowners. Prior to granting Final Plat approval, the Board of County Commissioners shall require proof that said homeowners association has been formed and is legally binding to future homeowners.

SECTION 5-10: SPECIAL USES

5-1001 General

This section of the Code establishes standards to review special uses subject to either one-step Planning Commission or Board of County Commission review or two-step special use permit review. Special uses may or may not be appropriate in certain locations depending on degree of conformance with adopted, relevant standards and policies. For certain special uses these standards may supplement special standards for specific uses. Refer to Section 3-5 for one-step review procedures, Section 3-6 for two-step review procedures and Section 4-7 for submission contents.

5-1002 Standards for All Special Uses and Other Uses Requiring One-step and Two-step Review

All Uses requiring One-step and Two-step Review, except Oil and Gas Exploration and Development (Section 5-26), shall comply with the standards in this section.

Consistency with Master Plan, Land Use Policies, Zone District and Neighborhood

The Use shall be:

5-1002 A.I. Consistent with the County Master Plan;

II. Consistent with County Land Use Policies in Article 2;

III. Consistent with the purpose of the Zone District in which it is proposed to be located;

IV. Consistent with and Compatible with the Character of the Neighborhood of the Parcel proposed for Development and surrounding land Uses, and may enhance the mixture of complimentary Uses and activities in the Neighborhood of the Parcel proposed for Development;

V. Necessary for public convenience at the proposed location; and

VI. Designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

5-1002 B. Impacts on Surrounding Area

Compatibility with the Character of Parcels adjacent to the Parcel shall be expressed in terms of appearance, scale and features, Site design, landscaping, weed seed dispersal, as well as, the control and Minimization of adverse Impacts

including Noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, Impacts on pedestrian and traffic congestion, parking, trash, service delivery, or other undesirable or hazardous conditions.

5-1002 C. Public Facilities

Adequate public facilities and services shall exist or shall be provided to serve any reviewable Use including, but not limited to, roads, potable water, sewer, solid waste, parks, police, fire protection, emergency medical, hospital and medical, drainage system and schools.

5-1002 D. Bond Requirement

A bond may be required, as a condition of any reviewable Use permit as deemed necessary by the Board of Commissioners or the Planning Commission, sufficient to cover the cost of Site remediation and/or satisfaction of the other conditions and requirements.

5-1002 E. The following must be addressed as part of any application:

I. A Site plan including:

- a. Ownership, Use and zoning of all adjacent Parcels;
- b. Driveways, streets and right-of-way, Access ways, including points of ingress, egress, parking plan;
- c. Easements;
- d. Location and dimensions of Structures and Signs;
- e. Typical elevations/Heights of such Buildings;
- f. Landscaping;
- g. Topography;
- h. Specific areas proposed for specific types of land Use/the identification of specific land Uses; and
- i. Information regarding the function and characteristics of any Building or Use proposed, including: days and hours of operation, number of employees, number of students, number of rooms for rent, etc., as applicable;

II. Lighting plan;

- III. Signs - all Signs must meet Section 5-704 standards;
- IV. Water/sewer plan - must meet state standards and may include verification of a commercial well permit;
- V. Drainage plan;
- VI. Grading plan;
- VII. Dust control plan;
- VIII. Detailed engineered plans and specifications by a registered Colorado Professional Engineer as requested by staff or Referral Agents;
- IX. Weed control plan that must include use of weed free hay or straw;
- X. Wildlife Plan (see Section 5-407 A. XII.); and
- XI. Additional permits as necessary from other agencies.

5-1002 F. Review of Approved Special Uses

- I. All approved Special Uses subject to either one-step Planning Commission or Board of County Commissioner review or two-step Special Permit Review shall commence within three (3) years of the date of approval. If the owner has not obtained a Development Permit for the approved Special Use and/or commenced the approved use or activity, in accordance with the terms and conditions of the approval, within this three (3) year time period, the Special Use shall be subject to review at a duly noticed Public Hearing by the entity that approved the Special Use. The purpose of this review is to determine if there has been a change in circumstances since the Special Use Permit was granted and to determine if the Special Use meets or complies with the review standards for Special Uses set forth in Land Use Code Section 5-1002 A. Standards for all Special Uses and Section 5-1002 B. Impacts on Surrounding Area.

Upon or prior to the expiration of the three (3) year period, the owner/applicant may provide a written statement withdrawing the Special Use application and requesting the Special Use approval be terminated. If upon expiration of the three (3) year period the owner/applicant does not provide a written statement withdrawing the application the matter shall be noticed and scheduled for Public Hearing by the County. The applicant is encouraged to provide a written statement, prior to the Public Hearing, indicating why the approved Special Use has not been permitted and/or commenced, identifying any changes that may have occurred in the surrounding land uses and explaining how the proposed Special Use meets

the review standards in Land Use Code Sections 5-1002 A. and 5-1002 B.

Review of an approved Special Use shall be conducted in accordance with the applicable provisions of Article 3 Procedures for one-step reviews and shall include posting and sending written notice of the Public Hearing for review of the Special Use to adjacent property owners. Development Permits for an approved Special Use shall not be issued following the expiration of the three (3) year period, prior to the required Public Hearing.

The Planning Commission and/or Board of County Commissioners in reviewing the Special Use Permit, at a duly noticed Public Hearing, may extend the Special Use Permit approval, extend the approval subject to modifications or additional conditions, or they may rescind and terminate the approval if a finding is made that the Special Use no longer meets the review standards for Special Uses pursuant to Section 5-10 Special Uses.

- II. If any approved Special Use is discontinued or abandoned for twelve (12) consecutive months, then such Special Use shall be subject to review initiated by the County. The procedures and standards for review of discontinued or abandoned Special Uses are the same as those for Review and Approval of Special Uses set forth in Land Use Code Section 5-1002 F. I. If a Special Use is discontinued or abandoned for twelve (12) consecutive months, and the Special Use is re-established or resumed by the owner, the use shall be subject to review in accordance with the provisions of this section and subject to review by either the Planning Commission and/or Board of County Commissioners, at a duly noticed Public Hearing, where the permitting entity may rescind or terminate, recognize and extend the original approval, or extend subject to additional conditions or modifications. The procedures and standards for review of discontinued Special Uses are the same as those for Review of Approved Special Uses set forth in 5- 1002 F. I.

5-1003 Minor Amendments to Special Use Permits

The Planning Director may approve, approve with conditions or disapprove minor amendments to approved special uses and special use permits subject to consideration of the standards in this Section. Refer to Section 3-4 for procedures and Section 4-7 for submission contents.

5-1003 A. Standards

As requirements for approval, the proposed activity shall not:

- I. Change the basic character of the use of land on which the activity occurs, including basic visual appearance and method of operation;
- II. Violate any Land Use Code standard;
- III. Substantially increase the need for on-site parking or utilities, or affect affordable housing generation; and
- IV. Increase the floor area of the use by more than two percent or decrease the open space on the site by more than three percent.

5-1004 Standards for Golf Courses in all Zone Districts

Prior to Planning Commission and BOCC Conceptual Work Session, a written statement of the following is required (conceptual shall mean description of the projects look and feel prior to detailed information. A Conceptual Work Session does not constitute an approval, either preliminary or final, of the proposal):

- Familiarize yourself with all standards of Sections 5-319 K. (WM Zone), 5-10 (F Zone), and 5-1004
- Conceptual Site statement that shows the proposed location and general layout of the golf course and any structures, including clubhouses
- Conceptual design statement for management of storm water runoff and water quality, percentage of cleared area proposed for all development during construction and after completion
- Conceptual grading statement showing topography
- Conceptual design statement of irrigation, drainage and retention systems that provide for efficient use of water
- Conceptual clearing and landscaping statement
- Description of sewage disposal and water supply
- Conceptual wildlife inventory and management statement
- Existing conditions statement including location of streams, ponds, wetlands, 100-year floodplain, topography with slopes differentiated, existing land cover, significant plant and/or animal habitat
- Conceptual management statement with a monitoring schedule for water quality,

- quantity, wetland health and wildlife preservation
- Conceptual affordable housing mitigation statement
- Identify the land uses on the surrounding adjacent parcels
- Required prior to Planning Commission Review
- Affordable housing mitigation plan
- Traffic analysis
- Air quality plan
- Final wildlife review and mitigation and monitoring plan
- 1041 Geohazard Review and Soils Report
- U.S. Army Corps permits
- Final management plan with a monitoring schedule for water quality
- Final management plan with monitoring schedule for wildlife preservation
- Final management plan with monitoring schedule for pests and weeds, including chemical & pesticide use
- Outdoor lighting plan, including location and time of use
- Final Site Plan, including parking plan and location of all structures
- Physical and legal adequate water rights must be demonstrated (water use must not deplete minimum in stream flows), but need not have final approval by the Colorado Division of Water Resources
- Design of irrigation, drainage and retention systems that provide for efficient use of water
- Final operating plan which should include days and hours of operation, months of the year, number of golfers to be accommodated at peak times, number of employees
- County and State Permits that must be acquired prior to Board of Commissioner Review:
- Certification of state Storm Water Management Plan
- Engineering for roads and structures (Refer to Section 5-5 for requirements)
- Final Grading Plan including detail for each hole and fairway and contour intervals
- Engineer Sewage Disposal Plan prepared by a registered Colorado Professional Engineer
- Dust Suppression Plan (State Permit if required)

5-1004 A. Purpose

The purpose of this section is to provide standards that ensure that golf courses in San Miguel County will not be situated in environmentally sensitive areas (as defined in Article VI), will have adequate water supplies, and will be held to the highest environmental standards. Golf courses should not negatively affect wildlife habitat areas and should blend into the natural environment. Courses shall use water conservation methods that protect water quality and quantity, drought tolerant grasses and strive to use integrated pest management and integrated weed management practices. Golf courses are encouraged to provide public recreation besides golf (e.g. walking, roller blading and/or Nordic ski trails).

Golf course related uses that are not for the benefit of nor primarily serve the purpose of the golf course users, shall not be reviewed through this golf course special use permit process, but through a separate process (e.g. conference centers, restaurants, swimming pools, tennis courts).

Potential golf course sites should be analyzed for suitability prior to an application being submitted. Potential sites may not be suitable for golf courses without mitigation if:

- I. wetlands or other sensitive species (as defined by the Colorado Parks and Wildlife or the Colorado Heritage Program) would be disturbed or adversely affected on site or downstream;
- II. water pollution on site or off site is unavoidable;
- III. the proposed development would adversely affect Critical Wildlife Habitat areas; or
- IV. compatibility with the neighborhood is not demonstrated.

5-1004 B. Preservation of existing vegetation and important trees

- I. Existing Vegetation:
 - a. An area equal to at least 60 percent of that disturbed by the golf course construction shall be preserved as passive open space (or improved to its native conditions), calculated by the area of disturbance for all fairway, hole and green construction along with club house and cart path construction (example: if 100 acres is disturbed for the golf course, 60 acres outside of the golf course disturbance must be reserved as open space for a total 160 acres);
 - b. The undisturbed area shall include wetlands, natural drainages, steep hillsides, important wildlife habitat and other environmentally sensitive areas identified under other sections of the Land Use Code;
 - c. The open space acreage is to be contiguous wherever possible and provide a buffer between the golf course and environmentally sensitive areas;
 - d. The undisturbed area is to be identified on the construction drawings and flagged in the field prior to construction to prevent accidental disturbance; and
 - e. The proposed development shall, maintain the existing topography to the extent feasible.
- II. Important Trees:
 - a. Conservation of healthy, vigorous and diverse tree groupings

containing aspen, ponderosa pine, cottonwoods or spruce is required;

- b. All spruce and pines over 12-inch diameter, measured at a point 1-foot from the ground, shall be preserved within their existing grouping equivalent to 50-feet in all directions. (The County may make exceptions if the specimen tree is diseased or compromised by other natural conditions); and
- c. In the event that a tree is not preserved due to hardship, a replacement tree of the same or similar species, or several replacement trees, shall be planted, such that the total diameter of the replacement tree(s) equals the diameter of the tree that was removed. All replacement trees must have a minimum caliper of 4-inches and be planted within preserved passive open space areas.

5-1004 C. Preservation of wetland, riparian and natural drainage areas

All proposed development shall conform to County requirements (Section 5-22) for Wetland Areas.

- I. A permanent untouched vegetative buffer shall be provided between all golf course construction and any wetland, riparian area or natural drainage;
- II. A buffer strip will be 100-foot in width unless important habitat or species are identified, in which case the buffer strip will be increased to 250-feet in width;
- III. No direct drainage from developed areas to wetland or riparian areas shall be permitted; drainage to these areas shall be in a manner that will prevent point discharge and promote sheet flows;
- IV. Wetland and stream crossings should be avoided. If unavoidable, bridges should be spaced no closer than 1,000 feet and span over streams and wetlands; and
- V. Irrigation wells and/or ponds constructed for irrigation water supply or as hazards shall not be located in streams or wetlands.

5-1004 D. Protection of wildlife habitat areas and fish habitat

All proposed development shall conform to County requirements (Section 5-407) for Wildlife Habitat Areas.

Prior to design, the applicant shall consult with the Colorado Parks and Wildlife

to delineate important wildlife habitat, including but not limited to migratory routes, production areas, winter range, nesting areas, forage areas, fish habitat and the presence of species of special concern.

5-1004 E. Protection of surface and groundwater quality

- I. The applicant shall identify all natural drainage channels (see Appendix I) and areas of seasonally high groundwater less than 10-feet from the surface;
- II. Tees, greens and ponds shall not be located in areas of seasonally high groundwater unless measures are taken to prevent groundwater contamination (such as using an impermeable liner);
- III. Recapture of irrigation water for reuse is encouraged to minimize usage and prevent contaminants reaching waterways; recaptured water shall be stored in a lined pond;
- IV. Baseline water quality, see Appendix I, (including thermal data) for shallow groundwater and adjacent surface waters shall be obtained from existing data or a monitoring program one year prior to construction as described in the Golf Course Standards Appendix;
- V. Where golf course improvements are within 100 feet of residential drinking wells, the applicant must conduct water quality tests prior to development and continue monitoring annually for nitrates and any chemicals used on the course;
- VI. A certified State Storm Water Management Plan (SWMP) shall be provided;
- VII. All vehicle and equipment maintenance areas and chemical storage facilities shall be paved and surface runoff contained for appropriate disposal; and
- VIII. Water quality monitoring, through an approved water quality management and monitoring plan, as described in Appendix I, is to be provided each year to the County.

5-1004 F. Water conservation

- I. Turf grass shall be selected to utilize drought tolerant, pest and disease resistant species;
- II. Turf areas and fairway widths shall be minimized and native vegetation retained in adjacent areas;

- III. Irrigated areas shall be limited to fairways, tees and greens and immediate clubhouse surroundings, and shall not exceed 100 acres for the total golf course development; and
- IV. A pressurized computer controlled irrigation system shall be constructed for all irrigated areas with soil moisture detection capabilities to ensure efficient application of irrigation waters.

5-1004 G. Control of erosion and sediment transport

- I. Slopes in excess of 30 percent shall be delineated on the engineering drawings. Any development on slopes greater than 30 percent shall comply with Section 5-404 E. No construction or grading shall take place on slopes in excess of 50 percent;
- II. The area of disturbance (exposed soils) shall be limited to a maximum of 20-acres at any one time until temporarily stabilized; disturbed areas shall be considered temporarily stabilized when mulch and vegetation coverage is in place that will prevent surface erosion; permanent vegetation shall be established within 60 days of the start of initial grading; and
- III. A proportional amount of the construction bond may be withheld if areas are not permanently stabilized.

5-1004 H. Pest management, fertilizers, and weed control

- I. Applicant must submit an initial pest and weed control plan that minimizes chemical use and emphasizes drought and disease resistant grass species; biological controls must be used when available (a list of permitted and/or prohibited pesticides, insecticides, fertilizers and other chemicals will be available from the County Environmental Health Department);
- II. Fertilizers to be used on the site must be proven to not leach from the subsoil layer;
- III. Chemicals must be specified and submitted to the County for review and approval;
- IV. Chemical plan must minimize use of chemicals and their effects on the environment; and
- V. A pest and weed plan shall be established, including pesticide selection and screening of materials to be used and avoided at the golf course. The plan shall also include local problems and treatment methods including disease control, insect control and weed control. The plan shall include

the following:

- a. monitoring of potential pest populations
- b. determining injury level
- c. developing and integrating biological, cultural and chemical control strategies that ensures protection of water quality and long term monitoring
- d. educating golf course personnel on biological and chemical control strategies
- e. timing and spot treatment preferences using chemical, biological and cultural methods
- f. evaluating results on an ongoing basis and annual updating of the plan
- g. a chemical safety program including storage, handling and application considerations as well as disposal. A pesticide application and storage record shall be kept by the person in charge of the pesticide program and shall be available to the County and posted for public review at the treatment area for a time in accordance with manufacturer's recommendations
- h. establish a spill prevention and response plan and provide a method for prevention, training and containment of pesticides and other chemicals
- i. evaluation of long-term use of pesticides on water quality

5-1004 I. Long term management and monitoring program

- I. All management and monitoring plans as described in this section shall be approved by the Board of Commissioners and shall include an agreed upon process and person or agency to conduct the monitoring;
- II. The County shall have the right to access the property to obtain water samples as necessary to be analyzed at the applicant's expense;
- III. Residential well monitoring, if necessary, shall be submitted to the County for annual review;
- IV. Pest, fertilizer, and weed monitoring plans shall be submitted, and yearly evaluations and updates shall be provided to the County;

- V. A wildlife monitoring plan must be approved by and submitted to the County and results provided to the County annually; and
- VI. An on-going water quality-monitoring plan shall be submitted and implemented to measure the impact of the construction activities and long-term golf course operations. Monitoring reports will be submitted annually to the County during construction and for three years from the start of full golf course operation, and then as requested by the County; such reports will also include an on-going water monitoring plan that monitors water quality and quantity before and after each season, for each stream entering and leaving the property.

5-1004 J. Multi-use of open space

- I. Multi-use recreational opportunities are encouraged in development of golf courses; such uses shall be monitored for resource damage and uses restricted as necessary to protect natural resources; and
- II. The playing areas may be used for development of groomed Nordic ski trails during winter months with limited clubhouse operation allowed to support this activity with Colorado Parks and Wildlife approval.

5-1004 K. Waste management

- I. All grass clippings and organic waste shall be composted on site and the resultant compost reused;
- II. A composting site shall be identified with procedures to ensure the composting eliminates weed seeds and promotes a healthy compost product;
- III. No on-site dumping, burial or burning of waste shall be allowed; and Composting and waste storage facilities shall be located so runoff from these facilities will not reach any drainage structures, natural drainages or environmentally sensitive areas including designated buffer strips.

5-1004 L. Air Quality

- I. No on-site burning of waste and/or vegetation shall be allowed; and
- II. For initial construction activities and reconstruction activities, adequate dust control, approved by the County Environmental Health Director, shall be provided.

5-1004 M. Design

All proposed development shall conform to County requirements (Section 5- 4 and 5 - 21) for Areas of Local and State Interest and Scenic Quality.

- I. A Site Plan that includes location of tees, greens, fairways, driving range and practice green, golf cart path, ponds, irrigation wells and roads and plans for removal and addition of vegetation must be submitted during the preliminary work session;
- II. A Site Plan for Clubhouse lot must be submitted that includes but is not limited to: building sizes and height, uses accessory to the primary golf course use (restaurant, bar, pro shop, gym), roads, parking lots, lighting, employee housing (number of employees for clubhouse and golf course), maintenance facilities, outdoor restaurant seating areas, outdoor storage of equipment;
- III. Equipment storage and maintenance areas shall be screened from adjacent residential units and public roads; and
- IV. No lighting for nighttime use shall be permitted on golf course, practice green or driving range; an outdoor lighting plan, including location and time of use, shall be submitted and approved by the County.

5-1004 N. Financial Security for Required Environmental Remediation

- I. Applicant shall provide adequate financial security, in a form and amount acceptable to the Board of County Commissioners (BOCC), to guarantee that sufficient funds are available to the county for the cost of any required revegetation, soil stabilization, and erosion controls. The amount of such financial security shall be determined based upon a cost estimate prepared by a qualified professional acceptable to the county and subject to the County Environmental Health Department's review and approval. Such financial security shall remain in effect for a period of time after completion of the development as specified in the project approval. Financial security for any required environmental remediation may be eligible for release by the BOCC, in whole or in part, upon the Environmental Health Department's written determination that such security is no longer required, in whole or in part, to guarantee satisfactory completion of revegetation, soil stabilization, and/or erosion controls. The County may draw upon such financial security, in whole or in part, should the BOCC find and determine that the revegetation, soil stabilization, and/or erosion control requirements have not been satisfied within the specified time period.

- II. The applicant will be responsible for paying a fee to be determined by the Board of County Commissioners that covers the cost of all monitoring as detailed in Section 5-1004 I, during construction and for a predetermined amount of time following construction.
- III. Violation or noncompliance with any Special Use Permit or applicable Land Use Code requirement may result in suspension and/or revocation of the Permit by the Board of County Commissioners (BOCC) following a duly noticed public hearing, held with no less than fifteen days prior written notice to the permittee, upon the BOCC determination that there is competent evidence of such alleged violation or noncompliance.

APPENDIX I

NATURAL DRAINAGE CHANNEL

A defined channel created by naturally occurring flows from a watershed area.

WATER QUALITY MONITORING

Baseline and long term water quality monitoring shall be conducted for:

- A. Shallow groundwater (within 10-feet of surface) identified within 100-feet horizontally of any proposed golf course improvements including irrigated landscaping or turf.
- B. Drinking wells within 100-feet horizontally of any proposed golf course improvements including irrigated landscaping or turf.
- C. Determine well yields on adjacent residential wells if golf course is to be serviced by wells.
- D. Adjacent surface waters (within 250-feet of any property line).

PARAMETERS OF CONCERN

Biological Oxygen Demand (BOD5)
Chemical Oxygen Demand (COD)
Total Suspended Solids (TSS)
Total Dissolved Solids (TDS)
Nitrate/Nitrite Nitrogen (as N)
Total Ammonia (as N)
Total Kjeldahl Nitrogen (as N)
Organic Nitrogen
Total Phosphorus (as P)
Orthophosphate Phosphorus
Oil and Grease
Total Cadmium (Cd)
Total Copper (Cu)
Total Lead (Pb)
Total Zinc (Zn)
Hardness (CaCO₃)
Turbidity
Alkalinity
Sulphate
Salinity
Mercury
E-coli

Note: Some of the parameters of concern may be dropped if applicant can justify that the parameters do not apply.

BASELINE WATER QUALITY

Baseline measurements shall consist of:

- A. Monthly sampling of temperature, pH, dissolved oxygen, conductivity, depth to groundwater or flow rate for surface waters, for a minimum of 6 months (April through September) in the year preceding construction.
- B. Two sampling events (a minimum of 3 months apart) for parameters of concern and semi-volatile scan (EPA method 8270) in the year preceding construction.
- C. Number and location of sampling points shall be determined based on project specific conditions and shall be approved by the County.
- D. A minimum of one up-gradient and one down-gradient sampling point shall be established during baseline measurements for long-term monitoring.

LONG TERM WATER QUALITY MONITORING PLAN

During construction and the first three years of full operation, water quality monitoring shall consist of:

- A. Monthly sampling of temperature, pH, dissolved oxygen, conductivity, depth to groundwater or flow rate for surface waters, from April through September.
- B. Two sampling events (spring and fall) for parameters of concern, semi-volatile scan (EPA method 8270), and herbicides/pesticides (method to be based on specific use).
- C. Number and location of sampling points shall be determined based on project specific conditions and shall be approved by the County.
- D. Annual report to be provided to County.
- E. If any significant change to baseline water quality is observed, the agreed upon person or agency conducting monitoring shall take immediate actions to notify County, identify source, provide mitigation and increase frequency of monitoring until problem is resolved.

After the first 3 years of full operation, provided no significant changes to baseline water quality has been observed, water quality monitoring shall consist of:

- A. Monthly sampling of temperature, pH, dissolved oxygen, conductivity, depth to groundwater or flow rate for surface waters, for 3 months between April and September.

- B. One fall sampling event for parameters of concern, semi-volatile scan (EPA method 8270), herbicides/pesticides (method to be based on specific use).
- C. Number and location of sampling points shall be determined based on project specific conditions and shall be approved by the County.
- D. Annual report to be provided to County.
- E. If any significant change to baseline water quality is observed, the agreed upon person or agency conducting monitoring shall take action to notify County, identify source, provide mitigation and increase frequency of monitoring until problem is resolved.

This plan may be modified to address site-specific concerns.

SECTION 5-11: CONDITIONAL USES ON FEDERAL LANDS

5-1101 General

This section of the Code establishes standards for review of conditional uses on Federal lands. Refer to Section 3-6 for two-step review procedures and Section 4-7 for submission contents. This Section does not apply to Minor Facility Oil and Gas Exploration and Development on Federal Lands.

5-1102 Standards

5-1102 A. The location, size, design and operating characteristics of the proposed conditional use minimizes adverse effects, including visual impacts, impacts on pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibrations and odor on surrounding properties; and

5-1102 B. The conditional use is designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

SECTION 5-12: SUBDIVISION EXEMPTIONS

5-1201 General

This Section establishes standards for the following subdivision exemptions:

- 5-1202 Survey Errors;
- 5-1203 Lot Line Adjustments;
- 5-1204 Parcels for Essential Community Facilities;
- 5-1205 Reversion to Acreage Plats;
- 5-1206 Agricultural Lands Lot Split;
- 5-1207 Open Land Protection;
- 5-1208 Fully Developed Residential Property;
- 5-1209 Single-lot Split in an Existing Subdivision;
- 5-1210 Wright's Mesa;
- 5-1211 West End;
- 5-1212 Wright's Mesa Open Land Protection; and
- 5-1213 Wright's Mesa Essential Community Facilities & Parks

5-1202 Survey Errors

A subdivision exemption to correct surveying or engineering errors may be permitted subject to compliance with standards in this section (refer to Sections 3-5 and 4-6 for procedures and submission contents).

5-1202 A. The correction shall be made to a recorded plat that has been approved by San Miguel County;

5-1202 B. The correction(s) increase(s) or do(es) not affect the degree of compliance with Code standards; and

5-1202 C. The revised final plat complies with the final plat submission contents (refer to Section 4-5).

5-1203 Lot Line Adjustments

A subdivision exemption to adjust a lot line between adjacent parcels or lots under separate ownership may be permitted (refer to Section 3-5 and 4-6 for procedures and submission contents) provided that:

5-1203 A. The adjustment creates not more than the original number of lots or parcels.

5-1203 B. The purpose or effect of the lot line adjustment is not the creation of a new lot or parcel (that is, one substantially different in size or dimensions) for development or resale purposes.

5-1203 C. In the case of conforming lots and parcels, any resulting lot or parcel shall conform to the minimum requirements for area and width established by the provisions of the Code.

5-1203 D. In the case of a nonconforming size lot or parcels, any resulting lot or parcel shall not increase in nonconformity.

5-1203 E. The applicant shall prepare a subdivision exemption lot line adjustment map.

5-1204 Parcels for Essential Community Facilities

The subdivision of land for essential governmental and community facilities is exempt from the subdivision regulations of this Code, provided that development occurs in compliance with the standards in this section and the submission contents for preparation of a final plat in Section 4-5 (Refer to Sections 3-5 for procedures and 4-6 submission contents).

5-1204 A. To qualify for an exemption the proposed use or activity must:

- I. Provide a basic or fundamental public service upon which the community is dependent for support;
- II. Be available to the general public;
- III. Serve primarily the local community; and
- IV. Provide facilities in response to growth, while not generating growth.

5-1204 B. Mitigation of Service Demands

An applicant for the exemption shall demonstrate the mitigation of demands for:

- I. Additional affordable housing;
- II. Transportation services and parking; and

- III. Basic services such as water supply, sewage treatment, fire and police protection and solid waste disposal.

5-1204 C. Mitigation of Environmental Impacts

An applicant shall demonstrate the development has negligible adverse impacts on:

- I. Air quality;
- II. Water, land and energy resources; and
- III. Scenic quality.

5-1205 Reversion to Acreage Plats

Reversion to Acreage Plats are exempt from subdivision provided they are in compliance with the standard in this section (Refer to Sections 3-5 for procedures and 4-6 submission contents):

5-1205 A. An applicant must submit a certificate from a licensed surveyor attesting to the correctness of the plat.

5-1206 Agricultural Land Lot Split

Land in the Forestry, Agriculture and Open (F) Zone District may be subdivided once to create one single-family residential building lot, provided such development occurs in compliance with the standards in this section:

- 5-1206 A. The land must have been continuously held in the same ownership since April 6, 1972;
- 5-1206 B. The parcel to be created will not be less than two acres in size;
- 5-1206 C. The fathering parcel has not been subdivided since April 6, 1972;
- 5-1206 D. The exemption parcel has a reasonable building site;
- 5-1206 E. The site will be served with electric power, an approved water system, waste disposal and a public access road at least 30 feet in width;
- 5-1206 F. The fathering parcel contains at least 70 acres;
- 5-1206 G. The parcel shall constitute a bona fide and on-going agricultural operation; and
- 5-1206 H. The applicant has prepared a final plat in compliance with the submission contents in Section 4-5.

5-1207 Open Land Protection (OLP)

5-1207 A. Purpose and Intent

The purpose and intent of OLP is to provide landowners with an alternative way to obtain equity from their land and encourage a more compact form of development that retains rural character, scenic views, productive agricultural lands and biological diversity. OLP employs an expedited review process that is easier to use than the standard subdivision process. OLP encourages a pattern of development that retains San Miguel County's rural character by encouraging smaller lots in a concentrated pattern while maintaining in perpetuity the rest of the land in its open, natural and productive condition. OLP encourages the sensitive location of home sites and careful design of roads, structures and fences to protect important scenic rural landscapes, agricultural and ranching lands, riparian areas, wetlands, wild flora and critical wildlife habitats. Finally, OLP minimizes the cost of rural services to the County.

5-1207 B. Applicability

OLP is limited to single-family residential uses permitted in the Forestry, Agriculture and Open (F), and West End (WE) Zone Districts in San Miguel County and is an alternative to conventional 35-acre development. A minimum of 70 acres is required for use of OLP. OLP shall not apply to any land already encumbered by any conservation easement or other permanent restriction prohibiting development or otherwise eliminating density.

5-1207 C. Allowed Density

- I. Allowed density is based upon the percentage of protected open space land set aside on the parcel. The more land that is kept open, the greater the allowed density bonus as follows:

Protected Open Land	Lot Bonus
60%	20%
70%	30%
80%	50%
90%	70%

- II. No fraction of a residential lot may be counted in the bonus calculation. For example, the minimum amount of land needed to obtain a lot bonus is 70 acres if 80 percent or more of the land is protected, which would result in 56 acres protected and 1 bonus lot. The minimum amount of land needed to obtain a lot bonus with only 60 percent of the land protected is 175 acres, which would result in 105 acres protected and 1 bonus lot.
- III. Caretaker units are permitted in OLP only if a central water and sewer system and/or water augmentation plan is used.

- IV. The total density of all residential units on a parcel, including caretaker units, shall not exceed 2 units per 35 acres.

5-1207 D. Review Standards

- I. The site plan and layout shall to the maximum extent feasible:
- a. minimize development on open, exposed portions of the landscape;
 - b. locate development in one or more compact area(s) and utilize a design character compatible with the rural landscape;
 - c. protect irrigated hay and pasture land;
 - d. protect wetlands, riparian areas, unique plant communities, critical wildlife habitat, and natural features and landmarks;
 - e. minimize development on ridgelines and in principal highway corridor view sheds;
 - f. minimize road and utility infrastructure and potential burden on County services;
 - g. minimize tree, vegetation and soil disturbance or removal and avoid scarring of hillsides with roads/utilities;
 - h. minimize visual and noise impacts on neighbors; and
 - i. demonstrate that any individual cluster greater than 15 units is compatible with the natural topography and landscape and will not cause adverse impacts on surrounding areas in accordance with 5-1002 B.
- II. The minimum lot size is 2 acres unless a state approved community water supply system is utilized. In such cases, the Board of County Commissioners may establish a smaller minimum lot size and setbacks.
- III. A single open space parcel shall be designated. Such open space parcel may be owned by private landowner(s), a homeowners association, non-profit organization or government entity. Activities permitted by right on the open space parcel shall be limited to agricultural and ranching operations and associated structures, and non-commercial hiking, cross-country skiing, hunting, fishing, horseback riding and sleigh rides. The following commercial activities may be considered for a special use permit on the open space parcel pursuant to Land Use Code Section 5-10, and each permitted use would replace one residential lot in the cluster:

hiking, cross-country skiing, hunting, fishing, horseback riding, sleigh rides and associated shelters.

- IV. The application shall meet all basic water system, sewage system, access and survey requirements set forth in this Land Use Code.
- V. If a well water supply system is proposed, the application must comply with Sections 30-28-101, 30-28-401 et seq. and 37-92-602 C.R.S. (concerning water well permits in cluster developments), including demonstration of at least two-thirds contiguous open space.
- VI. Development of an OLP may be phased in accordance with an approved plan submitted by the applicant.

5-1207 E. Submittal Requirements

- I. In addition to the minimum contents of all Land Development Applications in Section 4-2, an applicant shall submit:
 - a. A site plan, as required by Section 4-208, that identifies:
 - i. property boundaries;
 - ii. lot lines for developed parcels;
 - iii. open space parcel boundaries;
 - iv. existing structures;
 - v. roads and driveways that comply with the applicable standards of Section 5-5;
 - vi. site constraints including flood plains, streams, wetlands, slopes over 30 percent, wildlife habitat, unique plant communities and irrigated lands; and (vii) building envelopes, if necessary to demonstrate compliance with applicable review standards.
 - b. Either plans for a well water supply and sewage disposal plan that complies with Sections 30-28-101, 30-28-401 et seq. and 37-92-602 C.R.S. or, if applicable, a community water supply system;
 - c. Identification of the entity (entities) (private landowner(s), a homeowners association, non-profit organization or government entity) that will have legal responsibility for managing and maintaining private roads and the restricted open land parcels; and

- d. A copy of both a plat note and either a conservation easement, deed restriction, or other covenant that restricts development on the open space parcel and names San Miguel County as a beneficiary. The restriction shall apply in perpetuity; however, after a minimum of 40 years, the owner of the open space parcel may request through two-step Planning Commission and Board of County Commissioners review to remove or modify the restriction. The Board of Commissioners may only release the restriction upon a finding that the purposes of the restriction can no longer be fulfilled either due to Land Use Code and/or Master Plan amendments or to change in surrounding development patterns and the Planning Commission and the Board of Commissioners shall consider any testimony offered by homeowners in the vicinity of the subject parcel. If the restriction is released, use of the subject parcel shall be governed by all applicable County regulations for the underlying Zone District.

5-1207 F. Review Process

- I. Projects with four or fewer lots shall be reviewed administratively and projects with five or more lots will require a one-step Board of County Commissioners review.
 - a. Administrative Review (four or fewer lots):
 - i. Pre-application Conference Summary prior to submittal to review OLP concept and site-specific information;
 - ii. application may be referred to the County Road Superintendent, County Environmental Health Official, County Engineer, Colorado Division of Water Resources, Colorado Parks and Wildlife and/or other applicable agencies;
 - iii. notification by the applicant of all landowners within 300 feet of the subject property pursuant to Section 3-9; and
 - iv. Planning Director action.
 - b. One-Step Board of Commissioners Review (five or more lots):
 - i. Pre-application Conference Summary (see above);
 - ii. application referred (see above);
 - iii. optional conceptual work session with the Board of

County Commissioners and staff prior to applicant submitting engineering and survey drawings;

- iv. notification of adjacent landowners; and
- v. Board of Commissioner review at a scheduled public meeting.

5-1208 Fully Developed Residential Property

The Board of Commissioners may grant a subdivision exemption for the purpose of subdividing property already developed for residential uses to or in excess of the maximum density allowed under current zoning. Such exemptions may be granted regardless of whether development occurred under existing zoning or prior zoning, provided that the lots and uses are now nonconforming, and provided that the development was achieved legally, in conformance with zoning at the time of development and not for the purpose of avoiding subdivision or other land use regulations. The maximum number of lots that may be created by such exemption may not be greater than the total number of existing detached structures containing housing units on the property.

5-1209 Single-lot Split in an Existing Subdivision

The Board of Commissioners may grant a Subdivision Exemption for the purpose of splitting an individual lot in an existing County approved Subdivision and/or Planned Unit Development under which such lot was approved for multiple units. Such exemption may be granted only for the purpose of creating separate parcels; no change of zoning, use, density, mass and scale and/or other applicable lot restriction may be considered. The lot split must meet all basic water system, sewage system, access, survey and final plat requirements set forth in the Land Use Code.

5-1210 Wright's Mesa Subdivision Exemption

5-1210 A. Purpose

The Wright's Mesa Subdivision Exemption is intended to encourage and retain agriculture on Wright's Mesa by allowing a landowner to create a small parcel and home site for a family member or long-time employee, or to generate cash to finance an on-going agricultural operation. The exemption provides an alternative to creating or dividing a 35-acre parcel from the larger agricultural or ranch parcel.

5-1210 B. Applicability

A person or landowner is entitled to one exemption on a parcel from the San Miguel County Subdivision Regulations for the purpose of creating a lot for one single-family residence and allowed accessory uses, provided the applicant

demonstrates to the satisfaction of the Board of County Commissioners that the exemption is consistent with the purpose statement in 5-1210 A. and if applicable, the review standards in 5-1210 C.

- I. Such exemption may be granted by the BOCC through the one-step review process for parcels 150 acres or greater in size with an existing single-family dwelling; or
- II. Such exemption shall be reviewed for compliance with the applicable standards through the two-step review process for parcels that are greater than 37 acres in size but less than 150 acres in size.

5-1210 C. Review Standards

The review standards for a subdivision exemption on parcels less than 150 acres include the following:

- I. An existing single-family dwelling exists on the property;
- II. The proposed parcels may not be less than 35 acres and two acres, respectively;
- III. The water supply for the new parcel shall be connected to and be served by a tap provided by the Norwood Water Commission;
- IV. The new parcel shall be located within non-productive agricultural land (i.e., a dry land area);
- V. The proposed subdivision exemption will promote continued crop irrigation and/or viable agriculture;
- VI. Neither of the parcels shall be dependent on water hauled from off-site;
- VII. The dwelling on the new parcel shall be located within 300 feet of the dwelling on the original parcel; and
- VIII. The subdivision shall be consistent with the purpose and intent of the Wright's Mesa Subdivision Exemption.

5.1210 D. Submittal Requirements

An application for the Wright's Mesa Subdivision Exemption shall be submitted to the Planning Department and shall include a plat that conforms to the Final Plat submission requirements of Section 4-5. In addition, the application shall include a statement demonstrating the adequacy of the water supply for the single-family residential use to be located on the new parcel.

5-1211 West End

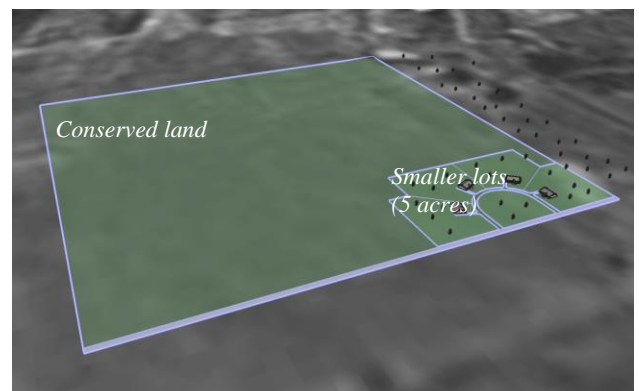
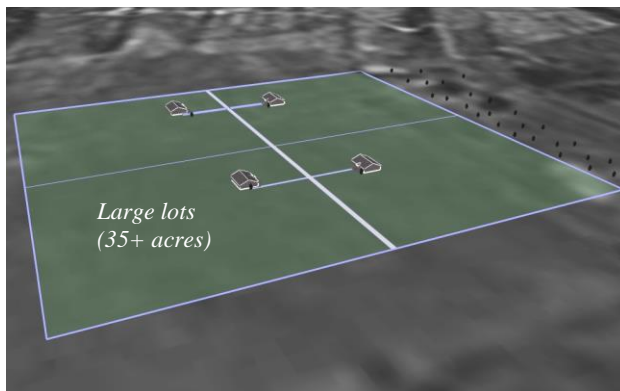
Recognizing that the continued viability of agriculture hinges on a complex array of technical skills, long and intense periods of physical effort by entire families, and a high level of financial risk, and recognizing that the number of full-time farm and ranch families are declining resulting in the need for ranchers and farmers to hold additional jobs, with agriculture being practiced on smaller parcels, the Board of Commissioners may grant a Subdivision Exemption in the West End (WE) Zone District for the purpose of creating 4 or fewer additional new parcels, each 3 acres or larger, from a single original parcel. None of these parcels are eligible for further subdivision or subdivision exemption.

An application must be submitted to the Planning Department that includes proof of adequate water supply, and a plat that conforms to the Final Plat submission requirements of Section 4-5. The plat must note 5-320 J. II. a., b. and c.

5-1212 Wright's Mesa Open Land Protection (WMOLP) Subdivision Exemption

5-1212 A. Purpose and Intent

The purpose and intent of the WMOLP subdivision exemption is to provide landowners in the WMRA zone district with an alternative way to obtain equity from their land and encourage a more compact form of development that retains rural character, scenic views, productive agricultural lands, and biological diversity. The WMOLP subdivision exemption employs an expedited review process that is easier to use than the standard subdivision process. This subdivision exemption encourages a pattern of development that retains the rural character of Wright's Mesa by encouraging smaller lots in a concentrated pattern while maintaining in perpetuity the rest of the land in its open, natural, and productive condition. The process is an alternative to conventional 35-acre development that is exempt from state and county subdivision regulations. It encourages the sensitive location of lots and home sites and careful design of roads, structures, and fences to protect important scenic landscapes, agricultural and ranching lands, riparian areas, wetlands, wild flora, and critical wildlife habitats.



Above examples: (a) Standard 35-Acre subdivision with four 40-acre lots carved out of a 160-acre parcel, and (b) Amended OLP with four 5-acre lots within 160-acre parcel with 140 acres conserved. (Note: This example does not show the extra bonus lot.)

5-1212 B. Applicability

- I. The WMOLP subdivision exemption is limited to the WMRA zone district.
- II. A minimum of 70 acres is required for use of this WMOLP subdivision exemption.
- III. This WMOLP subdivision exemption shall not apply to any land already encumbered by any conservation easement or other permanent restriction prohibiting development or otherwise eliminating density.
- VI. The WMOLP subdivision exemption shall not apply for parcels located entirely within the Gunnison Sage-grouse Habitat Overlay or within the Wright's Mesa Source Water Protection Area Overlay.

5-1212 C. Allowed Density

- I. Allowed density is based on the percentage of protected open space land set aside on the parcel. The more land that is conserved, the greater the allowed lot bonus as follows.

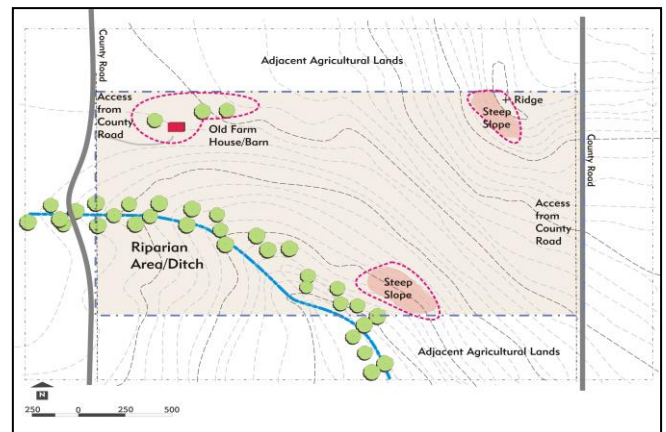
Protected Open Land	Lot Bonus
70%	50%
80%	100%
90%	150%

- II. No fraction of a residential lot may be counted in the bonus calculation.
- III. Secondary dwelling units are permitted in WMOLP only if a central water and sewer system and/or water augmentation plan is used.
- VI. The total density of all residential units on a parcel, including secondary dwelling units, shall not exceed 3 units per 35 acres.

5-1212 D. Review Standards

- I. The site plan and layout shall, to the maximum extent feasible:

- Minimize development on open, exposed portions of the landscape;
- Locate development in one or more compact area(s) and utilize a design character compatible with the rural landscape;
- Protect irrigated hay and pasture land;
- Protect wetlands, riparian areas, unique plant communities, critical wildlife habitat, and natural features, and landmarks;
- Minimize development on ridgelines and along Highway 145 in the view corridor;
- Minimize development in high fire hazard areas;
- Minimize road and utility infrastructure and potential burden on County services;
- Consolidate driveways to minimize driveway cuts along county roads;
- Minimize tree, vegetation, and soil disturbance or removal and avoid scarring of hillsides with roads/utilities;



Sample site plan and layout showing compliance with the WMOLP subdivision exemption.

- j. Minimize visual and noise impacts on neighbors; and
 - k. Demonstrate that any individual cluster greater than 10 units is compatible with the natural topography and landscape and will not cause adverse impacts on surrounding areas.
- II. The minimum lot size is 2 acres unless Norwood water and sewer are utilized.
- III. A single open space parcel shall be designated. Such open space parcel maybe owned by private landowner(s), a homeowners association, non-profit organization or government entity. Activities permitted by right on the open space parcel shall be limited to agricultural and ranching operations and associated structures, and non-commercial outdoor recreation Special Use Permit activities may be considered on the open space parcel pursuant to the Table of Allowed Uses and general and use-specific standards
- IV. The application shall meet all basic water system, sewage system, access and survey requirements set forth in this Land Use Code.
- V. If a well water supply system is proposed, the application must comply with Sections 30-28-101, 30-28-401 et seq., and 37-92-602 C.R.S. (concerning water well permits in cluster developments), including demonstration of at least two-thirds contiguous open space.
- VI. Development of a WMOLP may be phased in accordance with an approved plan submitted by the applicant.

5-1212 D. Submittal Requirements

- I. In addition to the minimum contents of all Land Development Applications in Section 4-2, an applicant shall submit:
- a. A site analysis map that identifies:
 - i. Roads, trails, utility easements, and rights-of-way;
 - ii. Topography (slopes over 30 percent and ridgelines);
 - iii. Streams, floodplains, ditches, source water protection area, and wetlands;
 - iv. Gunnison Sage-grouse habitat;
 - v. Geologic hazard areas;
 - vi. Irrigated lands;
 - vii. Adjacent public lands;
 - viii. Existing conservation easements or protected lands;
 - ix. Adjacent property lot sizes, setbacks, and building sizes;
 - x. Built features, including driveways, farm roads, buildings, fences, walks, barns or sheds, drainage fields, utilities and utility easements; and
 - xi. Historically and culturally significant sites or structures.

- b. A site plan, as required by Section 4-208, that identifies:
 - i. Property boundaries;
 - ii. Lot lines for developed parcels;
 - iii. Open space parcel boundaries;
 - iv. Existing structures;
 - v. Roads and driveways that comply with the applicable standards of Section 5-5;
 - vi. Site constraints listed in subsection a above; and
 - vii. Building envelopes, if necessary to demonstrate compliance with applicable review standards.
- c. An open space parcel map that includes:
 - i. Contiguity with adjacent open lands, conservation areas, and agriculture lands;
 - ii. Unique natural, historic, or cultural site features (including wildlife habitat area, watershed protection);
 - iii. A minimum buffer of 100 feet between any residential structure and adjacent agricultural activities or open lands; and
 - iv. A minimum buffer for residential lots of 100 feet along county roads or along Highway 145.
- d. Either plans for a well water supply and sewage disposal plan that complies with Sections 30-28-101, 30-28-401 et seq., and 37-92-602 C.R.S., or if applicable, a community water supply system;
- e. Identification of the entity (entities) (private landowner(s), a homeowners association, non-profit organization or government entity) that will have legal responsibility for managing and maintaining private roads and the restricted open land parcels; and
- f. A copy of both a plat note and either a conservation easement, deed restriction, or other covenant that restricts development on the open space parcel and names San Miguel County as a beneficiary. The restriction shall apply in perpetuity; however, after a minimum of 40 years, the owner of the open space parcel may request through two-step Planning Commission and Board of County Commissioners review to remove or modify the restriction. The Board of Commissioners may only release the restriction upon a finding that the purposes of the restriction can no longer be fulfilled either due to Land Use Code and/or Master Plan amendments or to change in surrounding development patterns and the Planning Commission and the Board of Commissioners shall consider any testimony offered by homeowners in the vicinity of the subject parcel. If the restriction is released, use of the subject parcel shall be governed by all applicable County regulations for the underlying Zone District.

5-1212 E. Review Process

- I. Projects with 10 or fewer lots shall be reviewed administratively, and projects with more than 10 lots will require one-step Board of County Commissioners review.
 - a. Administrative Review (10 or fewer lots):
 - i. Pre-application Conference Summary prior to submittal to review WMOLP concept and site-specific information;
 - ii. Application may be referred to the County Road Superintendent, County Environmental Health Official, County Engineer, Colorado Division of Water Resources, Colorado Colorado Parks and Wildlife and/or other applicable agencies;
 - iii. Notification by the applicant of all landowners within 300 feet of the subject property pursuant to Section 3-9; and
 - iv. Planning Director action.
 - b. One-Step Board of Commissioners Review (more than 10 lots):
 - i. Pre-application Conference Summary (see above);
 - ii. Application referred (see above);
 - iii. Optional conceptual work session with the Board of County Commissioners and staff prior to applicant submitting engineering and survey drawings;
 - iv. Notification of adjacent landowners; and
 - v. Board of Commissioner review at a scheduled public meeting.

5-1213 Wright's Mesa Essential Community Facilities & Parks

A parcel thirty-five acres in size, or larger, a portion of which is to be used for an Essential Community Facility, as defined in Section 5-319 K., is eligible for an exemption from the San Miguel County Subdivision Regulations for the purpose of creating and/or acquiring a less than 35-acre parcel for essential governmental and community services within the Norwood Master Plan Area as identified in the Wright's Mesa Master Plan. This Essential Community Facility Subdivision Exemption for property within the Norwood Master Plan Area may also allow the seller to retain the development rights on a fifteen (15) acre or larger parcel but less than 35-acre parcel, that is not the parcel on which the essential community facility is to be located, where San Miguel County recognizes such parcel of property for development purposes, zoning, and under Colorado law as if it were 35-acres.

The subdivision of land for a Park, as defined in Article 6, is exempt from the San Miguel County Subdivision Regulations for the purpose of creating and/or acquiring a less than 35-acre parcel for a Park site. The minimum lot area for a Park in the WMRA Zone district shall be established through the One-step Special Use Permit Review for the proposed Park use.

The subdivision exemption for a WM Essential Community Facility or Park is subject to compliance with Section 3-5 procedures, preparation of a Subdivision Exemption Plat pursuant

to Section 4-5, and the submission contents in Section 4-6.

- 5-1213 A. To qualify for a Wright's Mesa Essential Community Facilities & Park Subdivision Exemption the applicant must also apply for and obtain approval of the proposed Essential Community Facility or Park in accordance with the applicable Wright's Mesa Zone District Standard set forth in Land Use Code Section 5-319 Wright's Mesa Zone Districts and must meet the General Standards in 5-319 as well as the Use-Specific standards for the proposed use.

SECTION 5-13: ACCESSORY DWELLING UNITS AND AFFORDABLE HOUSING

5-1301 General

This section of the Code establishes standards for accessory dwelling and affordable housing.

5-1302 Accessory Dwelling Units

5-1302 A. Applicability

One accessory dwelling unit per lot or parcel may be approved in the HD, MD and LD Zone Districts (only within the Telluride Region as defined in the Telluride Regional Area Master Plan) subject to compliance with the standards in this section. Refer to sections 3-4 and 4-7 for procedures and submission contents.

5-1302 B. Standards

- I. An accessory dwelling unit shall not be:
 - a. Rented for a term less than six months.
- II. An accessory dwelling unit shall:
 - a. Provide off-street parking in compliance with Section 5-702;
 - b. Be limited to a maximum size of 800 square feet;
 - c. Be built in accordance with the County's adopted Uniform Building Code;
 - d. Be attached to the main residence, unless either no higher than 16 feet or located within a customary residential accessory building, such as a garage;
 - e. Not in combination with the principal residence exceed the maximum allowable floor area of the applicable zone district; and
 - f. Comply with the San Miguel County Sanitation Regulations.

5-1303 Affordable Housing in the Telluride R-1 School District

To promote affordable housing, impact mitigation shall be required as a condition of approval pursuant to this Code for the following types of development in the Telluride R-1 School District: office, restaurant and retail, hotel, residential and ski area, based on the formulas in this section. In the interest of maintaining fairness and simplicity, all fractions shall be rounded down to the nearest whole number.

5-1303 A. Office, Restaurant, Retail and other Commercial Development

Office, restaurant, retail and other commercial development has been found to generate 3 employees per 1,000 gross square feet (gsf). Developers of these use types shall mitigate 15 percent of this impact based on the amount of gsf approved pursuant to this Code, as follows:

- I. Each new office, restaurant and retail development shall be required to build deed-restricted housing for one employee for every 2,250 gsf;
- II. No mitigation shall be required for developments of less than 2,250 gsf.

5-1303 B. Hotel Development

The number of employees that need to be housed as impact mitigation for hotel development shall be determined using the following formula (based on the definition of "population density"):

- I. Divide the total number of hotel units by two (2) (to get the equivalent number of condominium units);
- II. Multiply that number by three (3) (to get the residential density equivalent in number of persons; 3 persons per condominium unit); and
- III. Calculate 15 percent of the residential density equivalent (and round down to the nearest whole number) to determine how many employees shall be housed to mitigate 15 percent of the impact of the hotel development.

5-1303 C. Residential Subdivision or Multi-family Development

- I. One of every three lots in each new residential Subdivision shall be deed-restricted using the R-1 Housing deed restriction specified in Section 5-1304 or as approved by the BOCC.
- II. One of every three units in each new Multi-family Development shall be deed-restricted using the R-1 Housing deed restriction specified in Section 5-1304 or as approved by the BOCC.
- III. Subdivisions that previously mitigated their impacts through the provision of deed restricted lots or cash-in-lieu shall be exempt from further mitigation.

5-1303 D. Ski Area Development

- I. Each ski area development that creates new base facilities in San Miguel County shall provide housing for 15 percent of its employees during all seasons; and
- II. For each new ski lift added to an existing ski area, the ski area operator shall provide housing for two ski area employees.

5-1303 E. Size, Location and Occupancy of Mitigation Units

Deed restricted housing constructed as affordable housing may be occupied by any person(s) qualifying under the deed restriction established by these County regulations or as approved by the Board of Commissioners. Families may occupy larger units or portions thereof if at least one member of the family qualifies under the deed restriction, and additional occupants also must qualify under the deed restriction.

- I. Deed restricted housing constructed as affordable housing impact mitigation shall provide:
 - a. At least 350 sq. ft. of space and
 - b. Full living, kitchen and sanitation facilities for each employee required to be housed.
- II. Affordable housing units shall be constructed on the site of the primary development, except as allowed by the Board of County Commissioners.
- III. Affordable housing units shall be constructed simultaneously with the primary development. In residential subdivisions, the required affordable housing lots platted shall be available to qualified employees at the same time that free market lots are offered for sale.

5-1303 F. Summary of Impact Mitigation Standards for Affordable Housing

Development Type	Employees Generated	Mitigation Level	Mitigation Required
Office	3/1,000 gsf	15%	1 / 2,250 gsf
Restaurant	3/1,000 gsf	15%	1 / 2,250 gsf
Retail	3/1,000 gsf	15%	1 / 2,250 gsf
Hotel	1.5/unit	15%	0.225 / unit
Ski Area	Year-round & Seasonal	15%	All Seasons
Residential Subdivisions		37%	1 / 3 lots
Multi-unit Projects		37%	1 / 3 units

5-1303 G. Employee Housing Impact Fee/Mitigation

- I. The employee housing Impact Fee/Mitigation applies to all Development for which a Building Permit application is applied for and approved by the County, unless exempted from payment of the employee housing Impact Fee/Mitigation pursuant to Section 5-1303. G. XI of this Code, or that has otherwise fully mitigated its Employee Housing Impacts in accordance with the applicable LUC provisions. The employee housing Impact Fee/Mitigation applies to:

- a. the new construction of a Building for which a Building Permit is required under the County's Building codes;
 - b. the construction of an addition to an existing Building for which a Building Permit is required under the County's Building Code; or
 - c. a change in use where the new use generates more employees than the previous use generated.
- II. The purpose of the employee housing Impact Fee/Mitigation is to require the applicable development to pay to mitigate the impacts of development and land use to the employee housing stock managed or controlled by the County or its authorized designee, the San Miguel Regional Housing Authority.
- III. The variables used in calculating the employee housing Impact Fee have been adopted by the Board of County Commissioners based upon research conducted by RPI Consulting. The variables include: the number of employees generated by the types of development, current level of service (i.e., how many employees working in the R-1 School District are living in deed-restricted housing), the subsidy needed per employee to construct employee housing, and the credit developers receive for future payment towards employee housing through Town of Mountain Village and Town of Telluride sales taxes.
- IV. The employee housing Impact Fee constitutes a fee of general applicability within the County and as such shall be applicable to all property located within the Telluride R-1 School District in the unincorporated County.
- V. Responsibility for Administration and Collection of Employee Housing Impact Fee. The employee housing Impact Fee will be determined by the County's Building Department or any other entity determined by the Board of County Commissioners to collect such employee housing Impact Fee. The Building Department will determine the Square Footage of Floor Area of a project for purposes of calculating the required employee housing Impact Fee. The Planning Office will make all other determinations and interpretations regarding employee housing Impact Fee administration required to properly implement these regulations, including, but not limited to, the calculation of any applicable credit as defined in this Code. The County intends to use the money solely for defraying the cost of capital facilities for deed-restricted, affordable housing pursuant to State of Colorado Statute 29-20-104.5.
- VI. When Employee Housing Impact Fee is Calculated and Due. The employee housing Impact Fee shall be a condition of a receipt of a Development Permit and shall be calculated and paid at time of issuance of a Building Permit.

- VII. Calculation of Employee Housing Impact Fee. The employee housing Impact Fee shall be calculated based upon the type of Development authorized to be constructed by the Building Permit, the number of employees generated by the development, and the total Square Footage of Floor Area proposed to be constructed as authorized by the Building Permit.
- VIII. Determination of Square Footage of Floor Area subject to Employee Housing Impact Fee. The determination of the Square Footage of Floor Area of a Building that is subject to the employee housing Impact Fee will be calculated based on the San Miguel County Land Use Code, and the Department's policies, procedures and methods of calculating Square Footage of Floor Area under this Code.
- IX. Mixed Use Buildings. For Buildings that are mixed use (e.g., Commercial/Industrial/Residential Buildings) the employee housing Impact Fee/Mitigation will be applied as follows:
 - a. Residential area will be charged the employee housing Impact Fee for Residential Development.
 - b. Commercial area will be required to provide employee housing Impact Mitigation for that Commercial Development, Hotel Development, and Ski Area Development which ever applies.
- X. Multiple Types of Buildings on One Lot. All Buildings constructed on the same Lot or Parcel will be charged the employee housing Impact Fee/Mitigation based on the Building Permit issued for that Building.
- XI. Exemptions to the Employee Housing Impact Fee/Mitigation. An employee housing Impact Fee/Mitigation will not be required to be paid or constructed for the following categories of Development:
 - a. Any Single-family Residence, Duplex, Multi-family unit or Lot that is Deed-Restricted under the County R-1 Housing Deed Restriction, Covenant or other restriction approved by the Board of County Commissioners is exempt from paying the Impact Fee.
 - b. Change of Use. Change of use without adding additional Square Footage of Floor Area or without increasing employee generation as determined herein will not result in the assessment of an employee housing Impact Fee/Mitigation.
 - c. Residential or Commercial Remodels. Commercial or Residential interior remodels that do not involve the construction of additional Square Footage or without increasing employee generation as determined herein will not result in the assessment of an employee housing Impact Fee/Mitigation.
 - d. Affordable Housing in Subdivisions. Existing or proposed subdivisions that include deed-restricted affordable housing units

properly restrained through deed-restrictions from open market sale or use to ensure that it is properly characterized as affordable housing, as such term is defined by this Code, may be given a level of credit to offset or mitigate the total employee housing Impact Fee assessed, unless there is an increase in the density or a change in use that increases employee generation. To evaluate and determine the level of credit assessed, the percent of deed-restricted, affordable housing units will be evaluated in relation to the impact mitigation required of that Development when approved.

- e. Single-family Dwelling less than 1,800 sq. ft. of Floor Area. The Board of County Commissioners finds that residential improvements less than 1,800 sq. ft. are presumed to be occupied by local employees, and only residential improvements with a Floor Area of 1,800 sq. ft. or larger should pay employee housing Impact Fees based on the fact that residential improvements above 1,800 sq. ft. of Floor Area have a strong tendency for non-resident occupancy, and the employee generation for non-resident occupied residential structures (second homes) is significantly greater than that for resident-occupied improvements creating impacts beyond the County's ability to mitigate without a fee assessed for the development.
- f. Other Exemptions. The Board of County Commissioners may grant additional exemptions and waivers of the employee housing Impact Fee/Mitigation when deemed to be in the public interest due to special circumstances or unique situations where the Development provides community benefit(s), or where the value of such benefit(s) meets or exceeds the mitigation that would otherwise be required.

XII. Employee Housing Impact Fee Credit for Sales/Use Taxes to be Paid. The need for a credit arises from the fact that occupants of new Residences in the unincorporated portion of the R-1 School District will be required to pay their share of the cost of housing the employees they generate, but they are also likely to buy goods in the town of Telluride and Mountain Village and therefore pay into the sales/use taxes earmarked in those towns for affordable housing. The sales/use tax credit used in the employee housing Impact Fee calculations has been calculated by RPI consulting and adopted by the Board of County Commissioners.

XIII. Right To Appeal Employee Housing Impact Fee Determination To Board of County Commissioners. Any person aggrieved by the decision of the Planning Office with respect to the administration of the employee housing Impact Fee under this Code will have the right to appeal such decision to the Board of County Commissioners pursuant to the Section 1-1903 of this Code. In addition, a developer may present alternative

calculations of employee generation to the Board of County Commissioners for review and consideration.

- XIV. Future Revisions to Employee Housing Impact Fee Regulations. The employee housing Impact Fee regulations may be reviewed periodically and relevant mitigation requirements adjusted as determined appropriate by the Board of County Commissioners.
- XV. Employee Housing Impact Fee Calculation for Residential Development. The employee housing Impact Fee shall apply to the Development of Residences, as defined in this Code, whose housing impacts have not previously been mitigated. The employee housing Impact Fee also applies to:
- a. New additions to existing detached Single-family Buildings. The fee shall be assessed only for the additional square footage beyond the 1,800 s.f. exemption threshold;
 - b. New additions to existing Multi-family Buildings;
 - c. Accessory Dwelling Units (regardless of size); and
 - d. Caretaker units (regardless of size).
- XVI. Impact mitigation rate. All new Residential Development shall be assessed the Impact mitigation rate of thirty-seven percent (37%) employee service level, or a level as shall be amended from time to time by the Board of County Commissioners.
- a. Appendix E, Table 1, of this Code sets forth the employee housing Impact Fee (per Residential unit) by year that will be assessed based on the size (sq. ft. of Floor Area) of the unit approved for each Development, pursuant to this Code.
 - b. Appendix E, Table 2, of this Code sets forth the construction mitigation rate each year for residential development.
- XVII. The Residential employee housing Impact Fee calculation is as follows:

$$\{[(.070174e^{.000322 * SF}) * (mitigation\ rate)] + [(sf * .0044) * (mitigation\ rate\ for\ that\ year)] / 40\}$$

• *per employee subsidy – Credit*) = *Impact Fee*

- XVIII. Commercial Development is not required to pay an Impact Fee but is required to provide Affordable Housing Units as determined in Section 5 1303 A., 5-1303 B. and 5-1303 D.

The San Miguel County Building Dept. is responsible for determining the impact fee per Section 5-1303 F. V. above.

5-1304 R-1 Housing Deed Restriction

The following deed restriction shall be imposed on each parcel of real property designated as Affordable Housing pursuant to Section 5-1305 of the San Miguel County Land Use Code.

5-1304 Deed Restriction

Subject Property: (Legal Description) ("Property")

The ownership of the Property is hereby limited exclusively to Employees and their spouses maintaining primary and sole Residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado, and to certain other persons and entities as permitted in Section 5-1305 of the San Miguel County Land Use Code, and the use and occupancy of the Property is hereby limited exclusively to such Employees who earn their incomes primarily within the Telluride R-1 School District and their spouses and children. Ownership, use and occupancy of the Property is subject to such definitions, exceptions and qualifications specified in Section 5-1305 of the San Miguel County Land Use Code, including but not limited to the following:

In the event Affordable Housing is sold, transferred and/or conveyed without compliance with Section 5-1305 of the San Miguel County Land Use Code, such sale, transfer and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every conveyance of Affordable Housing, for all purposes, shall be deemed to include and incorporate by this reference all terms of that certain Section 5-1305, including but not limited to those provisions governing the sale, transfer or conveyance of property.

The foregoing restriction on ownership, use and occupancy constitutes a covenant that runs fifty (50) years from the date of recordation with the title to the Property as a burden thereon for the benefit of the Board of County Commissioners of San Miguel County, Colorado, or its designee, and shall be binding on the Owner, and on the heirs, personal representatives, assigns, lessees and licensees and any transferee of the Owner. The duration of this restriction and covenant shall extend for an initial period of fifty (50) years, and at the option of the Board of County Commissioners of San Miguel County, or its designee, may be extended for an additional period of fifty (50) years after public hearing and comment on the proposed extension. This restriction and covenant shall be administered by the Board of County Commissioners of San Miguel County, Colorado, or its designee, and shall be enforceable by any appropriate legal or equitable action, including but not limited to specific performance, injunction, abatement or eviction of non-complying Owners, users or occupants, or such other remedies and penalties as may be specified in Sections 1-16 and 5-1305 of the San Miguel County Land Use Code, or under law.

Notwithstanding the foregoing, this Deed Restriction shall automatically terminate upon the failure to exercise the Option to Purchase the Property granted in any Option to Purchase Affordable Housing by and between the San Miguel County Housing Authority and the holder of a first mortgage and subsequent issuance of a public trustees deed to the holder of a promissory note or governmental agency guaranteeing, insuring or acquiring the note (except San Miguel County, the Housing Authority or any successor, a Project Developer as defined in the Land Use Code or any non-profit affordable housing corporation) secured by a first deed of trust encumbering the Property. The date of termination shall be the date of recording the Public Trustee's Deed conveying the Property.

In addition, San Miguel County expressly reserves the right to terminate this Deed Restriction as to the Property upon recording a Termination Agreement in the office of the Clerk and Recorder of San Miguel County executed by all of the then owners of the Property and the Board of County Commissioners.

5-1305 Guidelines, Rules and Regulations Governing Affordable Housing in the Telluride R-1 School District

5-1305 A. Purpose

This Section shall govern the ownership, use and occupancy of Affordable Housing in the Telluride R-1 School District of San Miguel County, including all "Employee Apartment" and "Employee Dormitory" dwelling units (defined on the Final Plat for Filing 1, Telluride Mountain Village) platted prior to the adoption of the Land Use Code. These guidelines, rules and regulations are intended to help preserve a sufficient supply of Affordable Housing to meet the needs of locally employed residents in the Telluride R-1 School District while allowing customary free-market (unrestricted) practices to influence sale and rental of Affordable Housing as much as possible. The Housing Authority may adopt less restrictive regulations than those that follow in this Section 5-1305, on a temporary basis only, to address extenuating circumstances as necessary to achieve the purpose of the County R-1 Housing Deed Restriction.

5-1305 B. Definitions

- I. "Acknowledgement of Deed Restriction" shall mean that document executed by the Owner of Affordable Housing in which the Owner acknowledges and agrees to comply with the Deed Restriction (see Section 5-1305 F.V.).
- II. "Acquisition Costs" shall mean the aggregate of:
 - a. "Original Purchase Price," which is the gross amount paid by the Owner to acquire the Property; plus

- b. "Initial Construction Costs," which is the gross amount paid by the Owner both to construct a dwelling unit on unimproved Affordable Housing Property and to obtain a certificate of occupancy for such dwelling unit; plus
 - c. "Home Improvements Costs," which is the gross amount paid by the Owner for improvements to such dwelling unit after issuance of certificate of occupancy, not to exceed 10 percent of the aggregate of the Original Purchase Price plus Initial Construction Costs.
- III. "Affordable Housing" shall mean residential dwelling units in the Telluride Region that are permanently deed restricted by the County's R-1 Housing Deed Restriction to limit use and occupancy to persons (and their families) who live and earn their livings primarily in the R-1 School District of San Miguel County, or such other deed restriction as approved by the BOCC.
- IV. "Affordable Housing Project" shall mean all the Affordable Housing granted approval by a single preliminary plat approved by the San Miguel County Board of Commissioners.
- V. "Certificate of Qualification" shall mean that document in which the Housing Authority certifies an Owner as a Qualified Owner or an occupant as an Employee according to the Deed Restriction (see Section 5-1305 F.V.).
- VI. "Deed Restriction" shall mean Land Use Code Section 5-1304.
- VII. "Employee" shall mean a person who has earned his living primarily within the Telluride R-1 School District by having worked there an average of 30 hours per week for at least eight months of the past year and maintains primary and sole Residence in San Miguel County, Montrose County, Ouray County or Dolores County. The Housing Authority shall determine whether a person qualifies as an Employee based on criteria including, but not limited to, percent of income earned within the Telluride R-1 School District, place of voter registration, place of automobile registration, drivers license address, income tax records and public service involvement within the Telluride R-1 School District community. A person not otherwise meeting the definition of Employee may be qualified as an Employee by the Housing Authority or its designee if that person is more than 60 years of age and has been employed in the Telluride R-1 School District for at least five out of the previous eight years. Determination of Employee eligibility by the Housing Authority's designee may be appealed to the Housing Authority.

- VIII. "Home Improvement Costs" shall mean only those costs associated with improvements or fixtures erected, installed or attached as permanent, functional, non-decorative features of the Property, for purposes of conserving energy or water, benefiting seniors or disabled persons, protecting health and safety, or adding to or finishing permanent storage or living space. Home Improvement Costs shall not cover repair, replacement or maintenance; landscaping, hot tubs, steam showers, saunas or similar features; modifying decks or balconies; upgrading appliances, plumbing, mechanical fixtures, carpets or other interior items included in original construction; and installing or upgrading decorative features including lights, window coverings and similar items. The Housing Authority must approve all items proposed for inclusion under Home Improvement Costs.
- IX. "Housing Authority" shall mean the San Miguel County Housing Authority established by the San Miguel County Board of Commissioners or its successors.
- X. "Live-work Housing" shall mean a multi-family structure located within the Low Intensity Industrial (I) Zone containing Affordable Housing dwelling units, and industrial space. The number of industrial units may not exceed the number of Affordable Housing dwelling units in each structure.
- XI. "Non-occupant Owner" shall mean a person, group or entity that owns one or more Affordable Housing Multi-family Units pursuant to Land Use Code Section 5-1305 C.IX.
- XII. "Option to Purchase" shall mean the Option to Purchase Affordable Housing agreement which may be entered into by and between San Miguel County, the Owner and the holder of a first mortgage that grants the Housing Authority the right to acquire the Subject Property in event of a foreclosure (see Section 5-1305 F.V.).
- XIII. "Owner" shall mean an Employee, Project Developer or Housing Authority holding fee title to Affordable Housing.
- XIV. "Project Developer" shall mean a person, group, organization, agency or other entity holding fee title to Affordable Housing and to which either:
- a. Final Plat approval for Affordable Housing is granted by the San Miguel County Board of Commissioners;
 - b. Development Permit approval for an entire Affordable Housing project is granted by the San Miguel County Planning Director;

- c. An entire Affordable Housing Project is wholly sold, conveyed or otherwise transferred by a Project Developer in accordance with the provisions of the Section 5-1305;
- d. Fee title to an "Employee Apartment" or "Employee Dormitory" unit in the Telluride Mountain Village has been legally conveyed;
- e. Land zoned for Affordable Housing is sold, conveyed, or otherwise transferred for the purpose of constructing Affordable Housing for resale to qualified Employees in conformance with a contractual agreement with the Housing Authority executed prior to such sale, conveyance or transfer; or
- f. Land zoned for Affordable Housing is sold, conveyed, or otherwise transferred for the purpose of constructing Affordable Housing for resale to qualified Employees in conformance with a contractual agreement with the Housing Authority executed prior to such sale, conveyance or transfer. Notice is hereby given that if the Housing Authority has reasonable cause to believe that a Project Developer under this definition is not actively developing and marketing lot(s) and/or unit(s) in conformance with such contractual agreement, the Housing Authority may purchase the lot(s) and improvements at the same price the Project Developer paid, plus any other remedies included in a specific contractual agreement. In the event the original lot has been subdivided and partially sold, the Housing Authority may pay a prorated amount based on the price the Project Developer paid.

XV. "Property" shall mean the real estate subject to the R-1 Housing Deed Restriction and the improvements thereon.

XVI. "Qualified Owner" shall mean:

- a. an Employee, Project Developer, or Non-occupant Owner whose right to own Affordable Housing has been certified by the Housing Authority,
- or
- b. the Housing Authority, San Miguel County or the Town of Telluride.

XVII. "Residence" shall mean the principal or primary home or place of abode of a person, meaning that home or place of abode in which a person's habitation is fixed and to which he, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A Residence is a permanent building, or part thereof, including a house, condominium, apartment, room in a house or mobile home. No vacant lot shall be considered a Residence.

- a. In determining what is the principal or primary place of abode of a person, the following circumstances relating to such person may be taken into account: Business pursuits, employment, income sources, residence for income or tax purposes, age, marital status, Residence of parents, spouse and children, if any, leaseholds, situs of personal and real property, voting registration and motor vehicle registration.
- b. A person shall not be considered to have gained residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado while retaining his home or domicile elsewhere. If a person moves to any location outside San Miguel County, Montrose County, Ouray County or Dolores County, Colorado he shall be considered to have lost his Residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado.

5-1305 C. Ownership, Use and Occupancy Regulations

- I. The ownership of Affordable Housing shall be limited exclusively to Employees and their spouses and to Project Developers and Non-occupant Owners, the Housing Authority or its designee, the San Miguel County Board of Commissioners and the Town of Telluride.
- II. No Employee shall be permitted to own or occupy Affordable Housing if such Employee, such Employee's spouse or such Employee's dependent owns any material interest, direct or indirect, in a "Single-family Residence," "Condominium" or "Lot" zoned for "Residential Use" (as such terms are defined in Article 6 of this Land Use Code) located elsewhere in San Miguel County, Montrose County, Ouray County or Dolores County. This prohibition includes partial or full corporate ownership established for the purpose of evading this provision or to provide beneficial interest sufficient to permit use and occupancy by the owner or part owner. In addition, Affordable Housing Single-family Residences and Duplexes must be owner-occupied and may not be rented, except as permitted by the Housing Authority pursuant to Section 5-1305 G.I.
- III. The use and occupancy of Affordable Housing shall be limited exclusively to Employees, their spouses and children and other immediate family members.
- IV. An Affordable Housing unit shall be the primary and sole Residence of the occupying Employee(s).
- V. A Qualified Owner shall sell Affordable Housing only to a Qualified

Owner and shall rent or otherwise limit occupancy of Affordable Housing only to Employees.

- VI. An Employee shall not engage in any business activity in Affordable Housing other than Home Occupations, as defined in this Code.
- VII. An Owner shall occupy or rent Affordable Housing only in accordance with this Section 5-1305 and shall not allow Affordable Housing to be used, sold or otherwise transferred for use in a trade or business.
- VIII. The terms of this Section 5-1305 of the San Miguel County Land Use Code shall constitute covenants running with the Property, as described in the R-1 Housing Deed Restriction (Section 5-1304 A.), as a burden thereon, for the benefit of, and shall be specifically enforceable by, the San Miguel County Board of Commissioners or its designee, by any appropriate legal action including but not limited to specific performance, injunction, eviction of non-complying owners and/or occupants, and/or by any of the enforcement and remedy provisions of Section 1-16 of this Land Use Code.
- IX. Any person, group, organization, agency or other entity may own one or more Affordable Housing "Multi-family Units" (as defined in Article 6 of this Land Use Code). Ownership of Multi-family units shall be subject to the Owner limiting occupancy of the Affordable Housing Multi-family Unit only to qualified Employees. On or prior to assuming ownership of an Affordable Housing Multi-family Affordable Unit, the Owner shall execute and record an Acknowledgement of Deed Restriction in the property records of San Miguel County.
- X. Free Market Property owned by an applicant shall not be transferred to any other person or persons or other entities for the purpose of evading these regulations.

5-1305 D. Procedure for Qualifying Affordable Housing

Property becomes designated as Affordable Housing when the San Miguel County Board of Commissioners or its designee and the Owner of the Property execute and record with the Office of the Clerk and Recorder of San Miguel County a final plat containing the County R-1 Housing Deed Restriction (Section 5-1304) or a separately recorded document imposing the County R-1 Housing Deed Restriction on the Property. Prior to the issuance of a certificate of occupancy for each "Employee Apartment" and "Employee Dormitory" unit, the Owner shall subject the unit to the County R-1 Housing Deed Restriction through proper execution and recordation of that document, as described in this Section 5-1305 D.

5-1305 E. Procedure for Purchasing and Occupying Affordable Housing

An Employee may not purchase or occupy Affordable Housing until he has:

- I. Submitted a standard application provided by the Housing Authority with all required documentation to the Housing Authority or its named designee;
- II. Appeared before the Housing Authority or its designee to testify as to the veracity of evidence of employment supplied to the Housing Authority or its designee in a manner proscribed by the Housing Authority or its named designee;
- III. In the case of intended purchase, recorded a copy of the Housing Authority's written certification of the Owner's qualification with the Office of the Clerk and Recorder of San Miguel County. In the case of intended rental occupancy, delivered a copy of the Housing Authority's written certification of the Employee's qualification to the Owner;
- IV. Provided a signed copy of a lease or other occupancy agreement, if the Affordable Housing is rented, to the Housing Authority or its named designee; and
- V. Paid an application fee in an amount set by Board of County Commissioners resolution, to the Housing Authority for processing his qualification application.

5-1305 F. Procedure for Selling and Renting Affordable Housing

- I. No Affordable Housing may be sold or rented without submission of written notice of intent to sell or rent the Affordable Housing to the Housing Authority. Such written notice must be submitted to the Housing Authority or its designee at least 30 days prior to offering or listing for sale or five days prior to leasing of the Property.
- II. In the event an Owner desires to sell Affordable Housing, the Owner may sell the unit himself or list and sell the unit through a real estate broker licensed in the State of Colorado. The Owner or broker, if any, shall promptly advertise the Affordable Housing for sale to qualified Employees. The seller shall upon closing of a sale pay a fee to the Housing Authority in an amount equal to one percent of the sales price. This one-percent fee shall include a Deed Restriction Administration fee in an amount set by Board of County Commissioners resolution. If the one-percent fee imposed by this section is not paid when due, that fee, all costs of collection of that fee and interest shall constitute a perpetual lien on the property. The County may foreclose this lien in the same manner

as other property tax liens of the County.

The seller shall not be required to pay the one-percent Deed Restriction Administration fee if the seller has already purchased another County Deed-Restricted Unit or if the seller purchases another County Deed-Restricted Unit no more than six months after closing on the sale of the County Deed-Restricted Unit that the seller is selling. If the seller has not yet purchased another County Deed-Restricted Unit, the seller shall make arrangements, to the satisfaction of the Housing Authority's Designee, to place the one-percent Deed Restriction Administration fee in escrow. The one-percent Deed Restriction Administration fee shall remain in escrow until the first to occur of the following two events:

- (1) The seller purchases another County Deed-Restricted Unit, and has not purchased any material interest in any other residential property in San Miguel, Montrose, Ouray or Dolores County in the interim, in which case the one-percent Deed Restriction Administration fee shall be refunded to the seller; or
- (2) The end of six months after the seller closes on the sale of the County Deed-Restricted Unit that the seller is selling, and the seller has not purchased another County Deed-Restricted Unit, in which case the one-percent Deed Restriction Administration fee shall be paid to the Housing Authority.

- III. In the event an Owner desires to rent Affordable Housing, the Owner may rent the unit himself or rent the unit through a real estate broker licensed in the State of Colorado. The Owner or broker, if any, shall promptly advertise the Affordable Housing for rent to qualified Employees. The Owner shall pay a Deed Restriction Administration fee set by Board of County Commissioner resolution for each Employee signing a lease for an Affordable Housing unit. If the administration fee is not paid promptly upon execution of a lease, that fee, all costs of collection of that fee and interest shall constitute a perpetual lien on the property. The County may foreclose this lien in the same manner as other property tax liens of the County.
- IV. For rentals of Affordable Housing only, the Housing Authority shall qualify an Employee for occupancy based upon demonstration of intent to be employed for at least eight months within the next 12 months. In making a determination about the applicant's intent, the Housing Authority may rely upon evidence including but not limited to: work patterns and written references, income tax records, current employment within the Telluride R-1 School District, percent of income earned from employment sources and public service involvement.
- V. As part of all sales and other transfers of Affordable Housing, the

following documents shall be executed and recorded in the Office of the Clerk and Recorder of San Miguel County (in addition to recordation of the Deed Restriction on the appropriate plat for the Subject Property):

- a. an Acknowledgement of Deed Restriction, in which the Owner acknowledges and agrees to abide by all terms and conditions of the Deed Restriction;
 - b. a Certificate of Qualification, in which the Housing Authority certifies that the Owner is a Qualified Owner under the provisions of the Deed Restriction;
 - c. any other contractual agreements that apply to the Affordable Housing unit that are necessary to evidence the Housing Authority's conditions of approval of the sale.
- VI. If Fannie Mae (FNMA)-type financing is used to purchase an Affordable Housing unit, as determined by the Housing Authority, the Housing Authority shall permit the Owner and the holder of the first deed of trust an Option to Purchase agreement which grants an option to the Housing Authority, San Miguel County, or the Town of Telluride to purchase the Affordable Housing in the event of a default in financing. FNMA-type financing is limited to commercial banking and lending institutions licensed to engage in mortgage lending practices in the State of Colorado.

5-1305 G. Rental Regulations

- I. An Owner may not rent Affordable Housing for any period of time without the written approval of the Housing Authority, as evidenced by a written certification signed by the Housing Authority or the Board of Commissioners or its designee, and such rental shall be subject to the Housing Authority's conditions of approval.
- II. Prior to occupancy of Affordable Housing by an Employee, or any renter, the Employee must be approved by the Housing Authority pursuant to all qualification requirements set forth in this Section 5-1305.
- III. A signed copy of the lease or other occupancy agreement must be provided to the Housing Authority prior to occupancy by an Employee, pursuant to Section 5-1305 E.IV.
- IV. In no case shall the rental deposit required by an Owner exceed twice the monthly rental, and in no case shall an Owner require that the rent for more than one month be paid in advance.
- V. Nothing herein shall be construed to require the Housing Authority or any

other entity to protect or indemnify an Owner against any loss attributable to rental, including but not limited to non-payment of rent or damage to Affordable Housing, nor shall the Housing Authority or any other entity be responsible for locating an Employee to occupy Affordable Housing in the event that no Employee occupant is found by the owner.

5-1305 H. Violations

- I. The Housing Authority may require at any time that an Owner verify within five days of such request by the Housing Authority that:
 - a. The Owner is a Qualified Owner and/or
 - b. Any particular tenant is a qualified Employee.
- II. In the event an occupant of Affordable Housing does not or no longer qualifies as an Employee, the Housing Authority may require that occupant to:
 - a. Vacate rental Affordable Housing within 60 days, or re-qualify as an Employee within that period; or
 - b. Vacate Affordable Housing he owns and cause it to be listed for sale pursuant to Section 5-1305 F. within one year, or re-qualify as an Employee within that period.
- III. In the event a violation is discovered, the Housing Authority shall provide a written notice of violation to the Owner detailing the nature of violation. Said notice shall state that the Owner may request a hearing before the Housing Authority within 15 days from the date of notice of violation to determine the merits of the allegations and to discuss remedies of the violation. If the Owner fails to request a hearing, the violation is considered to be conclusively determined.
- IV. Default by an Owner in payments or other material obligations due or to be performed under a promissory note secured by a deed of trust encumbering Affordable Housing ("Secured Obligations") by an Owner shall constitute a violation of this Section 5-1305 and of Section 1-1504 of the San Miguel County Land Use Code. Each Owner shall notify the Housing Authority in writing immediately upon receipt by the Owner or his agent of any notification received from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a first deed of trust, as described herein, within five calendar days of the Owner's notification from lender, or its assigns, of said default of past payments.

5-1305 I. Remedies

- I. There is hereby reserved to the Housing Authority any and all remedies provided by law and by Section 1-16 of this Land Use Code for violation of this Section 5-1305 or any of its terms. In the event of litigation with respect to any or all provisions of this Section, the prevailing party in such litigation shall be entitled to recover damages and costs, including reasonable attorney's fees.
- II. In the event Affordable Housing is sold, transferred and/or conveyed without compliance with this Section 5-1305, such sale, transfer and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every conveyance of Affordable Housing, for all purposes, shall be deemed to include and incorporate by this reference all terms of this Section 5-1305, including but not limited to those provisions governing the sale, transfer or conveyance of Property.
- III. In the event an Owner fails to remedy any violation, the Housing Authority may resort to any and all available legal action, including but not limited to injunction or specific performance of this Section 5-1305 requiring the sale of Affordable Housing by the Owner. The costs of such sale shall be charged against the proceeds of the sale, with the balance being paid to the Owner.
- IV. Nothing herein to the contrary withstanding, if an Employee Owner of Affordable Housing no longer qualifies to own Deed Restricted housing, based on the definition of Employee in Section 5-1305 B. and/or the Ownership Use and Occupancy Regulations in Section 5-1305 C. and fails to requalify within one year but continues to make all required principal and interest payments on an Affordable Housing ownership unit, he must offer the property for sale, and he must accept a bid equal to or exceeding, the aggregate of his (i) Original Purchase Price, plus (ii) Initial Construction Costs, if any, plus (iii) Home Improvements Costs, if any, not to exceed 10 percent of the aggregate of the Original Purchase Price plus Initial Construction Costs, if any. As used in this Section 5-1305 I.IV., "Original Purchase Price" means the gross amount paid by such Employee Owner to acquire the Affordable Housing ownership unit; "Initial Construction Costs" means, if and only if the Affordable Housing ownership unit when acquired by such Employee Owner was an unimproved lot, the gross amount paid by such Employee Owner to construct a dwelling unit on such unimproved lot and to obtain a certificate of occupancy for such dwelling unit, and "Home Improvement Costs" means the gross amount paid by such Employee Owner for improvements to such dwelling unit after issuance of a certificate of occupancy for such dwelling unit. Real estate commissions, the Real

Estate Transfer Assessment (RETA), closing costs, appraisals, and any other costs not approved by the Housing Authority shall not be allowed to be incorporated into the listing price once the one year requalification period has ended. The Owner shall not be required to accept a bid that requires the Owner to carry back any portion of the purchase price by a note. If no bids are submitted that equal or exceed his original purchase price plus proven home improvements, he does not have to accept any, and he, his spouse and/or his children may continue to occupy the unit (without violating the provisions of Section 5-1305 H.II.b.), provided that the Property continues to be offered for sale through a real estate broker licensed in the State of Colorado and any bid equal to or exceeding the Original Purchase Price plus Initial Construction Costs plus Home Improvements Costs is accepted.

5-1305 J. Foreclosure

- I. The Housing Authority may require the Owner to sell Affordable Housing that becomes subject to a default in order to avoid commencement of any foreclosure proceeding against the Affordable Housing, regardless of whether the Housing Authority has received notice pursuant to Section 5-1305 H.IV. In the event the Housing Authority determines that sale of the Property is necessary, the Owner shall immediately offer the Property for sale or enter into a Standard Exclusive Right to Sell Listing contract, with price and terms not to exceed prevailing price and terms for similar lots or units in the then-current Affordable Housing market, on forms approved by the Colorado Real Estate Commission. The seller shall promptly advertise the Affordable Housing for sale to qualified Employees. The seller shall upon closing pay a fee to the Housing Authority of one percent of the sales price. In the event of a listing of Affordable Housing pursuant to this Section, the Housing Authority may require the Owner to sell the Affordable Housing unit or units to an Employee who submits the highest bid that satisfies the owner's Secured Obligations received at least 10 days prior to the expiration of the redemption period.
- II. Pursuant to the specific terms of an Option to Purchase (if this agreement has been offered, accepted and executed between the Owner, the holder of the first deed of trust and the Housing Authority), with and recorded Pursuant to the specific terms of an Option to Purchase, to be executed simultaneously with and recorded immediately subsequent to the first deed of trust, the terms of which are incorporated into this Section 5-1305 by this reference as if fully set forth herein, the Deed Restrictions contained herein shall terminate in the event of foreclosure by the holder of the promissory note secured by a first deed of trust on the respective Affordable Housing and subject to the issuance of a public trustee's deed to the holder of the promissory note or governmental agency guaranteeing, insuring or acquiring the note from the holder, provided that the Housing

Authority, the San Miguel County Board of Commissioners and/or the Telluride Town Council is granted an option to acquire the public trustee's certificate of purchase within 30 days after the issuance thereof for an option price not to exceed the sum for which the property was sold at foreclosure sale with interest from the date of sale, together with any taxes paid or other proper charges as provided by law, with interest from the date such expense was paid. Such interest shall be charged at the default rate if specified in the original instrument or, if not so specified, at the regular rate specified in the original instrument. If applicable, in the event the Housing Authority exercises its option to purchase, the Housing Authority may resell or hold, own or rent the Affordable Housing, subject to the provisions of this Section 5-1305.

Notwithstanding the event of foreclosure by the holder of the promissory note secured by a first deed of trust on the respective Affordable Housing, if an Option to Purchase agreement was neither offered nor executed between the Owner, the holder of the first deed of trust, and the Housing Authority, then the deed restrictions contained herein shall not terminate and the property will maintain its restricted status.

- III. In the event that the Housing Authority exercises the option pursuant to the terms of that certain Option to Purchase, described above, and thereafter acquires title to the Property, the Housing Authority and/or its designee may sell the Affordable Housing or rent it to qualified Employees until sale is affected.

5-1305 K. Notices

Any notice, consent or approval required under this Section 5-1305 shall be provided in writing by certified mail, return receipt requested, properly addressed and with postage fully prepaid, to the Housing Authority address provided below or to the Owner at an address provided by that Owner at the time of qualifying Affordable Housing (per Section 5-1305 D.). Addresses may be changed with written notice to all other parties to this Section.

Address for the Housing Authority:

San Miguel County Housing Authority
c/o San Miguel Regional Housing Authority
P.O. Box 840
Telluride, CO 81435

5-1305 L. General Provisions

- I. Forms of Documents. All forms of documents referred to in Section 5-1305 F.V. (including the Acknowledgement of Deed Restriction, the

Certificate of Qualification and the Option to Purchase) shall be approved by the County Attorney prior to use.

- II. Further Actions. The parties to any agreement contemplated under this Section 5-1305 agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Section or any agreement or document relating hereto or entered into in connection herewith.
- III. Gender and Number. Whenever the context so requires in this Section 5-1305, the neuter gender shall include any or all genders and vice versa, and the use of the singular shall include the plural and vice versa.
- IV. Non-discrimination. No Employee shall be discriminated against on the basis of race, national origin, sex, color, creed or physical infirmity.
- V. Personal Liability. The Owner shall be personally liable for any violations of the provisions in Section 5-1305.
- VI. Severability. Whenever possible, each provision of this Section 5-1305 shall be interpreted in such a manner as to be valid under applicable law; however, if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating any remaining provision.
- VII. Successors. Except as otherwise provided herein, the provisions and covenants contained in this Section 5-1305 shall inure to and be binding upon the heirs, successors and assigns of the parties.
- VIII. Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Section shall be valid against any party hereto, except on the basis of a written instrument executed by the parties to the R-1 Housing Deed Restriction. However, the party for whose benefit a condition is inserted shall have the unilateral right to waive such condition.

5-1306 Additional Affordable Housing Provisions

5-1306 A. Purpose of this Section

This Section sets forth additional, temporary rights of ownership and usage of Affordable Housing that may be permitted upon Housing Authority review, which shall not be considered a part of the Deed Restriction. All definitions contained in Section 5-1305 shall apply in this Section 5-1306.

5-1306 B. Project Developer Approvals

The provisions of this Section 5-1306 B. are intended to provide incentives to construct Affordable Housing on unimproved land so zoned.

- I. Any person, group, organization, agency or other entity may apply to the Housing Authority for approval as a Project Developer for construction of one or more Affordable Housing dwelling units.
- II. A prospective Project Developer shall submit a written application to the Housing Authority containing:
 - a. the name of the Project Developer;
 - b. a description of the Project, including location, lot number(s), lot size(s), unit size(s), and general construction characteristics;
 - c. a description of financing for the Project, including the name of the lending institution for land and/or construction, terms of the loan and repayment schedule;
 - d. a business and marketing plan for the Project, including plans for resale, name of listing agent, expected time period needed for resale, estimated costs of construction, expected sale price and profit; or, if the Project is intended for rental, expected rents and proposed management agent; and
 - e. qualifications of the Project Developer and any Project contractor(s) or management agent(s).
- III. The Housing Authority's designee shall approve a prospective Project Developer as a Qualified Owner if the Housing Authority's designee finds that:
 - a. all information required by Section 5-1306 B. has been provided; and
 - b. the qualifications of the prospective Project Developer and/or any Project contractor(s) are adequate and sufficient to give reasonable assurance to the Housing Authority that the Project will be completed as contemplated in the application.
- IV. Decisions made by Housing Authority's designee in regard to applications made under this Section 5-1306 B. may be appealed to the governing Board of the Housing Authority.

- V. Approval of a Project Developer shall be evidenced by a contract executed by and between the Project Developer and the Housing Authority, which shall be recorded as a covenant against the Affordable Housing Property. Such contract shall refer to and incorporate the contents of the Project Developer application as required herein. The form of such contract shall be approved by the County Attorney.
- VI. If the Housing Authority has reasonable cause to believe that a Project Developer under this definition is not actively developing and marketing lot(s) and/or unit(s) in conformance with such contractual agreement, the Housing Authority may purchase the lot(s) and improvements at the same price the Project Developer paid, plus any other remedies included in a specific contractual agreement. In the event the original lot has been subdivided and partially sold, the Housing Authority may pay a prorated amount based on the price the Project Developer paid.

5-1306 C. Exceptions to Definition of Employee

- I. The Housing Authority may grant exceptions to the definition of Employee at Section 5-1305 B.VII. of the Land Use Code either as discretionary exceptions, administrative exceptions, or staff exceptions. Applications for discretionary or administrative exceptions require payment of the standard fee for One-step County Review as established by Board of Commissioners Resolution adopting or modifying Land Use Application Review Fees.
- II. As a condition of discretionary or administrative exceptions, the Housing Authority may require the execution of a contractual agreement between the Housing Authority and the Employee setting forth the terms of the exception to be recorded as a covenant against the Affordable Housing Property. The form of such contract shall be approved by the County Attorney.
- III. Applications for discretionary exceptions to Section 5-1305 shall be heard by the governing Board of the Housing Authority:
 - a. Conditions for discretionary exception:
 - i. The Owner of an Affordable Housing Property desires a leave of absence greater than one year for purposes of travel, schooling, temporary job assignment or other reasonable purpose, or;
 - ii. The applicant establishes other compelling circumstances, which shall not include financial hardship, justifying an exception.

IV. Applications for administrative exceptions to Section 5-1305 shall be reviewed and may be approved by the Staff of the San Miguel Regional Housing Authority with the consent of the governing Board of the Housing Authority:

a. Conditions for administrative exception:

- i. The Owner of an improved Affordable Housing Property desires a period of time, not to exceed twenty four (24) months from the date of acquisition of the second property, in which to own both an improved Affordable Housing Property and an unimproved Affordable Housing Property with the limitation that the twenty four month period of time is designed to allow the Owner to construct the necessary improvements on the unimproved Affordable Housing Property so that the previously unimproved property is occupied and used by the Owner as the primary residence, provided the Owner sells the improved Affordable Housing Property to a qualified Employee within the twenty four month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the Affordable Housing Property may result in a forced sale, including, but not limited to, the available remedies of Section 5-1305 I. IV;
- ii. The Owner of an improved Affordable Housing Property desires a period of time, not to exceed twenty four (24) months from the date of acquisition of the second property, in which to own both an improved Affordable Housing Property and an unimproved Free Market Property with the limitation that the twenty four month period of time is designed to allow the Owner to construct the necessary improvements on the unimproved Free Market Property, provided the Owner sells the Affordable Housing Property to a qualified Employee within the twenty four month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the Affordable Housing Property may result in a forced sale, including, but not limited to, the available remedies of Section 5-1305 I. IV;
- iii. The Owner of an improved Free Market Property desires a period of time, not to exceed twenty four (24) months from the date of acquisition of the second property, in which to own both an improved Free Market Property and an unimproved Affordable Housing Property with the

limitation that the twenty four month period of time is designed to allow the Owner to construct the necessary improvements on the unimproved Affordable Housing Property so that the property is occupied and used by the Owner as the primary residence, provided the Owner sells the improved Free Market Property within the twenty four month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the improved Free Market Property may result in a forced sale of the Affordable Housing Property, including, but not limited to, the available remedies of Section 5-1305 I. IV; or

- iv. The Owner of an unimproved Affordable Housing Property desires a period of time, not to exceed twelve (12) months from the date of acquisition of the second property, in which to own both an unimproved Affordable Housing Property and an improved Affordable Housing Property with the limitation that the twelve month period of time is designed to allow the Owner to move into the improved Affordable Housing Property and to sell the unimproved Affordable Housing Property to a qualified Employee within the twelve month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the Affordable Housing Property may result in a forced sale of either property, including, but not limited to, the available remedies of Section 5-1305 I. IV;

V. Applications for staff exceptions to Section 5-1305 shall be reviewed and may be approved by the staff of the San Miguel Regional Housing Authority for a leave of absence for purposes of travel, schooling, temporary job assignment or other reasonable purpose not to exceed a total of twelve (12) months in any five (5) year period of time.

VI. Submission Requirements. An application for either a discretionary, administrative or staff exception shall include, at a minimum, an affidavit from the applicant describing the circumstances and reasons why exception is necessary, and shall include the following minimum information:

- i. Proof and history of employment in San Miguel County;

- ii. A statement as to whether the applicant owns any other property inside or outside San Miguel County;
 - iii. The nature and extent of the applicant's community commitments and involvement; and
 - iv. A statement describing any change in circumstances warranting an exception.
- a. **San Miguel Regional Housing Authority Review.** Discretionary and administrative exception applications shall first be reviewed by the Staff of the San Miguel Regional Housing Authority and a recommendation shall be made to the Housing Authority. Pursuant to Section 5-1306 C. V., staff of the San Miguel Regional Housing Authority shall be the reviewing entity for staff level exceptions. Any challenge to a staff exception decision must be filed in writing with the governing Board of the Housing Authority by an affected or aggrieved party to the staff decision within 14 days of the staff decision. In reviewing the appeal, the governing Board of the Housing Authority shall consider the staff decision based on the exception requested by the applicant. The Housing Authority shall affirm the staff decision or take action as it shall deem necessary to remedy the staff decision.
 - b. **Fee.** Applications for discretionary or administrative exceptions shall include payment of the standard fee for One-step County Review.
 - c. **Other Requirements.** Any discretionary or administrative exceptions which may be granted pursuant to this section shall require a written agreement approved by the County Attorney and shall include such terms, security, conditions, remedies as the Housing Authority may require in its sole discretion, including, without limit, measures to ensure compliance with any such agreement. The County may withhold building permits, issue stop work orders, assess penalties, seek specific performance or require improvement agreements or impose other conditions to secure an exception.
 - d. **Review Standards.** All applications for discretionary or administrative exceptions must be found, in the sole discretion and judgment of the Housing Authority, to be consistent with the purpose and intent of Section 5-1305 of the Land Use Code.

VII. An exception to the definition of Employee shall be granted to enable listing on the title a co-borrower who is not an Employee, if a co-borrower

is necessary for an Employee to qualify for financing to purchase an Affordable Housing Property. Such exception shall be granted upon:

- a. receipt of a letter from the Lender on behalf of the Employee that states:
 - i. the co-borrower's name and relationship to the Employee,
 - ii. a co-borrower is necessary for the Employee to qualify for financing to purchase the Affordable Housing Property in question,
 - iii. it is necessary for the co-borrower to be listed on the title to the Affordable Housing Property; and,
- b. execution of a contract by and between the Employee, the co-borrower and the Housing Authority providing for sale of the unit in the event the co-borrower takes full title to the Affordable Housing Property for any reason. Such contract shall require that the co-borrower contact the Housing Authority immediately upon taking full title to the Affordable Housing Property. Within 60 days of the date the co-borrower takes full title, the co-borrower must accept a bid equal to or exceeding the Acquisition Cost of the Property as defined in Section 5-1305 B.II. The form of such contract shall be approved by the County Attorney. Application for approval of a co-borrower shall be made to the Housing Authority and shall be subject to such additional Housing Authority conditions as may be in effect at the time of application.

SECTION 5-14: PLANNED UNIT DEVELOPMENT (PUD)

5-1401 Intent

Planned Unit Development (PUD) is a subdivision procedure permitting variation of dimensional, permitted uses and parking standards to promote compliance with the County's Land Use Policies. Specific purposes are:

- A. Promoting flexibility in the type, design and siting of structures to preserve and take advantage of a site's unique natural resources and scenic features and to avoid or mitigate any hazards;
- B. Encouraging efficient use of land and public streets, utilities and governmental services;
- C. Preserving open space;
- D. Achieving a compatible land use relationship with surrounding areas; and
- E. Promoting multiple land uses and greater variety in the type, design and siting of buildings.
- F. Preserve and protect wildlife and wildlife habitat areas.

5-1402 Applicability

5-1402 A. Mandatory Planned Unit Development (PUD)

Adherence to Planned Unit Development (PUD) standards is mandatory whenever a developer proposes to subdivide land at a density higher than allowed by right in a particular zone district.

5-1402 B. Activities Exempt From Mandatory Planned Unit Development (PUD)

Compliance with Planned Unit Development (PUD) standards is not required for uses and densities allowed by right and for uses allowed by administrative review in a particular zone district.

5-1402 C. Optional Planned Unit Development (PUD)

An applicant may request Planned Unit Development (PUD) review for land subdivisions within any zone district.

5-1403 General Standards

Each Planned Unit Development (PUD) shall comply with the following general standards:

5-1403 A. Ownership

Land proposed for Planned Unit Development (PUD) must be in one ownership; however, the owners of contiguous parcels under separate ownership may jointly file an application.

5-1403 B. Compatibility of Land Uses

Area and bulk requirements and permitted land uses may be varied pursuant to the standards within specific zone districts to insure compatibility among multiple land uses in a Planned Unit Development.

5-1403 C. Area and Bulk Requirements and Variation

Area and bulk requirements may be established or varied pursuant to the standards in Section 5-1404 A.

5-1403 D. Phasing

A Planned Unit Development (PUD) shall insure:

- I. Each phase is self-sufficient and not dependent upon later phases;
- II. The failure to develop subsequent phases will not have any adverse impacts on the Planned Unit Development (PUD), its surroundings or the community in general; and
- III. Amenities such as open space and recreational areas are provided along with proposed residential or tourist accommodation construction at each development phase.

5-1403 E. Common Open Space and Recreational Facilities

A Planned Unit Development (PUD) must:

- I. Include common open space and recreational facilities for the mutual benefit of residents of the entire tract, including residents of on-site affordable housing;
- II. Preserve and, if possible, enhance unique site features; and

- III. Include provisions for maintenance of common open space and recreational facilities to be described in the improvements agreement (Refer to Section 5-9).

5-1403 F. Maximum Density

A Planned Unit Development (PUD) is not entitled automatically to the maximum density allowed in the zone district in which the land is located. Density shall be established based upon:

- I. Analysis of environmental factors affecting the land;
- II. Availability and adequacy of transportation system and facilities;
- III. Compatibility with surrounding land uses;
- IV. Consideration of adopted County plans affecting the site; and
- V. Consistency with Land Use Policies in Article 2.

5-1403 G. Procedures and Submission Contents

Refer to Section 3-7 for procedures and Sections 4-3 through 4-5 for submission contents.

5-1404 Variations in Standards

This Section establishes criteria for varying area and bulk, open space, off-street parking and use standards for a Planned Unit Development (PUD).

5-1404 A. Area and Bulk Requirements

The following area and bulk requirements may be varied to cluster buildings and dwelling units, provided the overall density of the development does not exceed the maximum allowable density permitted and the development remains consistent with the intent of Planned Unit Development (PUD) (refer to Section 5-1401):

- I. Minimum lot area;
- II. Minimum front, side and rear yard setbacks;
- III. Minimum lot width;

- IV. Maximum height of buildings; and
- V. Maximum floor area ratio.

5-1404 B. Common Open Space or Open Space

Common open space or open space standards may be reduced by up to five percent if:

- I. Such reduction is consistent with the intent of the Planned Unit Development (PUD) procedure (refer to Section 5-1401);
- II. Such reduction is consistent with the San Miguel County Comprehensive Development Plan;
- III. Such reduction is consistent with the purpose and standards of the Scenic Foreground Overlay and Scenic View Plane Districts (refer to Section 5-316);
- IV. The common open space is useable and suitable for scenic, landscaping or recreation purposes; and
- V. A proportionate, undivided interest in all common open space is deeded in perpetuity to the homeowners association within the Planned Unit Development (PUD); which deed shall contain restrictions against future residential, commercial and industrial development.

5-1404 C. Off-street Parking

Off-street parking standards (see Section 5-702) may be increased or decreased based upon consideration of the following criteria:

- I. The estimated number of cars owned by future occupants of dwellings in a Planned Unit Development (PUD);
- II. The parking needs of any non-residential uses;
- III. The varying time periods of use, whenever joint use of common parking is proposed; and
- IV. Available or proposed transportation system.

5-1404 D. Permitted land uses may only be varied pursuant to the listing of uses allowed by PUD procedure and to demonstration of compliance with the review standards for the various land use districts within a PUD.

5-1405 Architectural Review

5-1405 A. Applicability

The County may require an applicant for a Planned Unit Development (PUD) to submit at preliminary subdivision review architectural plans and/or design criteria sufficient to address the intent of Section 5-1405 B.

5-1405 B. Intent

The intent of architectural review is to protect and promote visual character of the County by preventing the development of unsightly or obnoxious structures which:

- I. Are not properly related to their sites or adjacent land uses;
- II. Do not enhance solar resources; or
- III. Involve the indiscriminate clearing of property, excessive grading or the destruction of trees and shrubbery.

5-1405 C. Standards

The Board of County Commissioners may require changes to architectural plans to:

- I. Reduce the adverse visual impacts of buildings, which, because of size, scale, color, location, lighting or materials either are out of harmony with the neighborhood in which they are to be constructed or diminish the natural beauty of mountain slopes or ridgelines;
- II. Minimize disturbances to the natural terrain; and/or
- III. Promote advantageous solar orientation and energy conserving design.

5-1406 Landscaping Review

5-1406 A. Applicability

The County may request an applicant for a Planned Unit Development (PUD) to submit landscaping plans at preliminary subdivision review.

5-1406 B. Standards

Landscaping plans shall include:

- I. An ample quantity and variety of ornamental plant and ground cover species that are native or regarded as suitable for the local climate;
- II. Low-water-use plant and ground cover species wherever possible; and
- III. A commitment and appropriate steps to revegetate all cuts and fills.

5-1407 Wildlife Protection and Mitigation

5-1407 A. Applicability

The County may require a proposed PUD or Substantial PUD Amendment to comply with Land Use Code Section 5-407 XII. that may require a Wildlife Impact Assessment.

SECTION 5-15: FINAL PLAT AND PLANNED UNIT DEVELOPMENT (PUD) AMENDMENTS

5-1501 General

This section of the Code establishes standards for insubstantial and substantial amendments to a final plat and PUD.

5-1502 Insubstantial Amendment

Insubstantial amendments to a final plat or a PUD are permitted. Refer to Section 3-4 for procedures and 4-6 for submission contents. An insubstantial amendment shall be limited to technical or engineering considerations first discovered during actual development, which could not reasonably have been anticipated during the approval process. The Planning Director shall compare the proposed amendment to the original approval, and, if any other amendments have been approved since the original approval, shall consider the cumulative impact of all approvals granted. The following shall not be considered an insubstantial amendment;

5-1502 A. A change in the use or character of the development.

5-1502 B. An increase by greater than three percent in the overall coverage of structures on the land.

5-1502 C. Any amendment that substantially increases trip generation rates of the proposed development, or the demand for public facilities.

5-1502 D. A reduction by greater than three percent of the approved open space.

5-1502 E. A reduction by greater than one percent of the off-street parking and loading space.

5-1502 F. A reduction in required pavement widths or rights-of-way for streets and easements.

5-1502 G. An increase of greater than two percent in the approved gross leasable floor area of commercial buildings.

5-1502 H. An increase of greater than one percent in the approved residential density of the proposed development.

5-1503 Substantial Amendment

Any amendment that is not insubstantial according to the criteria in Section 5-1502 shall be approved pursuant to the procedures in Section 3-601, and the submission contents and standards for final plat review and the standards in this section (refer to section 3-702 C. for procedures

and Section 4-5 for submission contents).

5-1503 A. The proposed amendments must be consistent with the approved sketch plan subdivision approval, however in the absence of a valid sketch plan approval the amendment shall be compared to the preliminary plat;

5-1503 B. The proposed amendment must be necessary to achieve the intent and purposes of the Planned Unit Development (PUD); and

5-1503 C. The proposed amendment must be consistent with the standards of Section 5-1803.

SECTION 5-16: MINING

The standards in this Section are intended to mitigate the impacts of mining and mineral processing, including protecting the health, safety and welfare of persons residing in the vicinity and of persons traveling on roads, streets and highways in San Miguel County utilized for hauling of mined material. This Section also contains provisions to ensure that the environmental impacts of mining and mineral processing are adequately mitigated. Mining and mineral processing operations are also subject to the special use permit provisions of Section 5-10.

5-1601 Applicability

The standards and requirements in this Section 5-16 shall apply to all mining and mineral processing operations required to obtain special use permit approval from the County, including any expansion of existing mining and/or mineral processing operations. Mining and mineral processing operations also are subject to applicable review requirements for Activities of Local and State Interest, as set forth in Section 5-4, and for Wetland Areas, as set forth in Section 5-22.

5-1602 Mitigation of Impacts

All on-site and off-site impacts shall be adequately mitigated to protect the health, safety and welfare of persons in San Miguel County and to protect the integrity and appearance of the natural environment. Consideration shall be given to site-specific environmental assessments and mitigation plans approved by the appropriate Federal agencies and/or the Colorado Division of Minerals and Geology and/or the Colorado Department of Health. However, compliance with such plans, as well as additional mitigation, may be required by the County as part of the special use permit review process. Such mitigation may include, but is not limited to, revegetation, dust control, noise control, visual screening, limitations on hours of operations, truck haul routes and traffic volumes.

5-1603 Enforcement of State and Federal Regulations

In the event that the County discovers that applicable state and/or federal regulations pertaining to a specific mining activity in San Miguel County have not been adequately enforced by the appropriate agency or organization, the Board of County Commissioners may require the mining activity to comply with any and all terms of such regulations. If such regulations are not complied with, the Board of County Commissioners may order such mining activity to cease and desist.

5-1604 Traffic Impacts and Highway Access

Mining (including sand and gravel operations) and mineral processing shall be limited to the greatest extent possible to areas where the surrounding road, street and/or highway network can accommodate heavy truck traffic. In no event shall a proposed operation be permitted where the carrying capacity of the surrounding road, street and/or highway network is exceeded by existing traffic volumes, or would be exceeded by projected or proposed traffic volumes.

5-1605 Additional Notice Requirements

In addition to the notice requirements set forth in Section 3-9, applicants for approval of mining and mineral processing operations shall also be required to provide written notice of a pending application by mailing such notice first class, postage prepaid, no less than 20 days prior to the scheduled meeting date to all owners of property within 1,500 feet of the subject property, and to all municipalities within 3 miles of the subject property.

SECTION 5-17: LOGGING

The standards in this Section are intended to mitigate the impacts of logging, including protecting the health, safety and welfare of persons traveling on roads in San Miguel County utilized for log hauling. This Section also contains provisions to ensure that the environmental impacts of logging are adequately mitigated. Logging operations are also subject to the special use permit provisions of Section 5-10.

5-1701 Applicability

The standards and requirements in this Section 5-17 shall apply to all logging operations required to obtain special use permit approval from the County.

5-1702 Mitigation of Environmental Impact

Each logging operation application must include a written plan that addresses how on-site and off-site impacts will be adequately mitigated with respect to Wetland Areas, as defined in Code Section 5-22, and to those Areas of Local and State Interest, as identified in Code Section 5-401 D., as follows:

- 5-1702 A. Floodplain hazard areas;
- 5-1702 B. Geologic hazard areas;
- 5-1702 C. Historic and archaeological resource areas;
- 5-1702 D. Wildfire hazard areas; and
- 5-1702 E. Wildlife habitat areas.

For logging operations on Federal or State lands the application submittal shall include a copy of any and all terms, conditions, requirements, or operational parameters which the Federal or State Forest Service have imposed upon the logging operation pertaining to impacts upon wetland areas, floodplain hazard areas; geologic hazard areas; historic and archaeological resource areas; wildfire hazard areas; and wildlife habitat areas. Compliance with a site-specific environmental assessment approved by the U.S. Forest Service or Colorado State Forest Service, and with an adopted U.S. Forest Service Management Plan or Colorado State Forest Service Management Plan that adequately addresses the above referenced Areas of Local and State Interest, shall constitute adequate on-site environmental impact mitigation. For logging operations on Federal land the County shall not require any environmental impact mitigation which conflicts with, or is inconsistent with, any terms, conditions, requirements, or operational parameters which the Federal agency with jurisdiction has imposed upon the operation. Off-site impacts subject to County review and approval shall include the designation of haul routes for those logging operations which propose to transport timber over San Miguel County roads and requiring compliance with applicable County Road and Bridge Department rules, regulations, and

requirements, including any Special Construction permit conditions and requirements which the County Road & Bridge Superintendent has imposed upon the hauling.

SECTION 5-18: LAND USE CODE AMENDMENTS AND REZONING

5-1801 General

This section of the Code establishes standards for Land Use Code amendments and rezoning.

5-1802 Land Use Code Amendments

Land Use Code Amendments may be initiated by the County or by persons who are residents of, or own property in, San Miguel County subject to compliance with the following standard. Refer to Sections 3-6 and 4-6 for procedures and submission contents.

5-1802 A. Land Use Code Amendments shall be drafted in a form consistent with the organizational format and style of the code.

5-1803 Rezoning

Rezoning may be initiated by the County or by persons who are residents of, or own property in, San Miguel County subject to compliance with the standards in this Section. Refer to Sections 3-6 and 4-6 for procedures and submission contents.

5-1803 A. The Planning Commission and the Board of County Commissioners shall approve or disapprove rezoning on the basis of whether the proposed rezoning:

- I. Conflicts with any applicable Sections of the Land Use Code;
- II. Is consistent with the San Miguel County Comprehensive Development Plan;
- III. Is compatible with surrounding Zone Districts and land uses, considering existing land use and neighborhood characteristics;
- IV. Would result in demands on public facilities, and so would exceed the capacity of such public facilities, including but not limited to transportation facilities, sewage facilities, water supply, parks, drainage, school and emergency medical facilities;
- V. Would result in significant adverse impacts on the natural environment;
- VI. Is consistent and compatible with the community character; and
- VII. Would be in conflict with the public interest;

5-1803 B. The Planning Commission and the Board of County Commissioners shall also consider whether conditions affecting the subject parcel have changed or whether the surrounding neighborhood supports the proposed amendment.

5-1803 C. The Planning Commission and the Board of County Commissioners shall also consider the effect of the proposed amendment on traffic generation and road safety.

SECTION 5-19: NONCONFORMING USES

5-1901 General

This section establishes standards for nonconforming uses, lots and structures.

5-1902 Continuation of Use

A nonconforming use may continue and a nonconforming structure may continue to be occupied, except as otherwise stipulated in this section.

5-1903 Change of Use

A nonconforming use may be changed to any conforming use.

5-1904 Abandonment or Discontinuance of Use

If a nonconforming land use or a nonconforming use of a structure is discontinued or abandoned for 12 consecutive months, then such use may not be re-established or resumed, and any subsequent use must conform to the provisions of this Code.

5-1905 Restoration

A nonconforming building or a building containing a nonconforming use which has been damaged by fire or other causes may be restored to its original condition, provided such work is started within six months of such calamity and completed within eighteen months of the time the restoration is commenced.

5-1906 Enlargement of a Building Containing a Nonconforming Use

A building containing a nonconforming use shall not be enlarged or extended, except by Two-step Special Use Permit, and only if the use in such nonconforming building meets the definition of "Essential Services" (in Article 6 of this Code) and is essential in its present location.

5-1907 Alteration of a Nonconforming Building

A nonconforming building may be structurally altered, or repaired in any way permitted by these regulations, provided no alterations, repairs, or enlargements are made which would increase the degree of nonconformity.

5-1908 Substandard-size Parcels

A legally created, substandard-size parcel may qualify for a building permit for a Single-family Residence if it meets all other applicable Land Use Code requirements, including the definition of lot and standards for driveways (Section 5-502 DD.) except for parcels in the HCA Zone

District, which require compliance with the provisions of Section 5-321 N.II. Such a parcel shall be merged with all other substandard-size parcels under contiguous ownership into one parcel, and no sale, transfer or other conveyance of less than 35 acres shall be allowed without County subdivision approval. A deed and a plat delineating the merged parcel must be recorded in the Office of the County Clerk and Recorder prior to the issuance of a building permit thereon.

SECTION 5-20: TRANSPORTATION REQUIREMENTS FOR DEVELOPMENTS IN THE TELLURIDE R-1 SCHOOL DISTRICT

5-2001 Transportation Impact Mitigation in the Telluride R-1 School District

Developers of subdivisions in the Telluride R-1 School District will be subject to specific requirements regarding transportation that must be met prior to final subdivision approval.

5-2001 A. Paying Fair-share Costs of Development

The initial capital costs of implementing the various elements of a transportation system necessary to serve any subdivision within the Telluride R-1 School District will primarily be the responsibility of the developer or of the development. However, the long term operation and maintenance of the system will provide benefit to all of the residents of the Telluride R-1 School District. Provisions must be made for the residents of a development to pay their fair-share of the operation and maintenance costs of the Telluride R-1 School District transportation system.

5-2001 B. Requirements in the Affordable Housing Planned Unit Development, Low Intensity Industrial, Low Density, Medium Density and High Density Zone Districts

Prior to final subdivision approval, each subdivision including lands proposed for development under the Affordable Housing Planned Unit Development, Low Intensity Industrial, Low Density, Medium Density and/or the High Density Zone District shall:

- I. Provide alternate transportation capital, facilities and equipment necessary to serve the development and provide for continuing operation and maintenance costs through, for example, self-imposed real estate transfer assessments, lodging taxes and/or impact fees, on an equitable basis;
- II. Mitigate its fair-share impacts on the Telluride R-1 School District transportation system through whatever arrangement may be deemed appropriate by the Board of County Commissioners; and
- III. Provide intercept parking to serve its internal needs in coordination with any existing Telluride R-1 School District parking plan. A developer may be required to cooperate with the Board of County Commissioners in arranging for expansion of such intercept parking to serve regional needs at any time; and
- IV. Provide easements on owned or controlled land necessary to ensure the feasibility of the alternate transportation mechanisms planned as part of the Telluride Region Alternate Transportation System and listed in Section

5-2002.

- V. Subdivisions proposed to include six or fewer lots may substitute in full for the alternate transportation requirements of this section with payment to the County of a 1.5 percent real estate transfer assessment on each conveyance of each lot.

5-2002 The Telluride R-1 School District Alternate Transportation System

5-2002 A. Gondola Link Between Telluride and the Mountain Village

A gondola linking the Mountain Village with the Town of Telluride will provide the primary transportation between those points.

5-2002 B. Gondola Link Between the Valley Floor and the Mountain Village

A gondola linking the Valley Floor development (from the Boomerang Road area) with the Mountain Village may be developed in conjunction with the Valley Floor development at the option of the developer. However, this gondola will not be built until the gondola described in Section 5-2002 A. has been constructed to protect the Town of Telluride's role as the commercial, cultural and governmental hub of the Telluride R-1 School District.

5-2002 C. Deep Creek Mesa Link

Any development on Deep Creek Mesa with lands proposed for development under the Affordable Housing Planned Unit Development, Low Intensity Industrial, Low Density, Medium Density and/or the High Density Zone District will be required to develop an alternate transportation link to the Telluride R-1 School District alternate transportation system and guarantee implementation of the link.

5-2002 D. Appropriate Use of Buses and Vans

Transportation systems utilizing buses and/or vans will be used only internally (within subdivisions) or as backup for the Telluride R-1 School District alternate transportation system. Buses and vans also will provide primary access to the Telluride Airport, the Montrose Airport and Down Valley areas.

5-2002 E. Down Valley Link

A bus/van system linking Down Valley areas with the Telluride R-1 School District alternate transportation system will extend via State Highway 145 to Norwood with regularly scheduled service. Intercept parking and ridesharing facilities for this system will be provided in the Placerville area and in Norwood.

5-2002 F. Light Rail System

A light rail element of the Telluride R-1 School District alternate transportation system shall initially utilize the Pacific Street Right-of-way through the Town of Telluride to transport passengers between Town Park and the Town of Telluride Intercept Parking/Coonskin Lift Area. Stations on the light rail system would variously provide connections to gondolas, chair lifts, buses, cars and parking, pedestrian paths and trails. The areas around stations, including those within the Town of Telluride, would be designed to facilitate changes in transportation mode by making these connection areas as compact as possible. Extensions beyond Town limits shall occur in two additional phases:

- I. The light rail line shall be extended along the railroad right-of-way to the Boomerang Road area in conjunction with the development of the Valley Floor; and
- II. The light rail line shall be further extended to join the Valley Floor extension with the West Meadows development. This extension may initially be used on an interim basis as a segregated bus line if demand-related triggers are guaranteed to insure full implementation of the light rail line.

5-2002 G. Operation and Maintenance of the Telluride R-1 School District Alternate Transportation System

A legal entity will be established to handle the operation and maintenance of the Telluride R-1 School District alternate transportation system. Initially, members of the entity shall include at a minimum the Mountain Village Metropolitan District and the Town of Telluride; however, the entity shall maintain a standing invitation for other property owners in the Telluride R-1 School District and other areas of the County to join.

SECTION 5-21: SCENIC QUALITY

This section establishes land use standards for the preservation of Scenic Quality in conjunction with development activities visible from neighboring developments and public use areas, in accordance with the policy on Scenic Quality established in Section 2-12. The Scenic Quality Standards in Section 5-2101 shall be applied in review of a Preliminary Plan submission, as established in Section 4-411, and the special use standards specified in Section 5-10 of this Land Use Code. Section 5-2101 C. provisions regarding prohibition of highly reflective materials and Section 5-2101 H. regarding lighting shall also apply for all proposed roofing during Development Permit review.

5-2101 Scenic Quality Standards

Each developer shall describe in detail how the visual impact of the proposed development on neighboring developments and public use areas shall be mitigated. Each such Scenic Quality Report shall include:

5-2101 A. Designations of scenic views of natural and historic features both from and toward the site and descriptions of how these vistas will be preserved;

5-2101 B. Designs that orient improvements in ways that allow them to blend in with and utilize the natural topography;

5-2101 C. Utilization of colors and textures found naturally in the landscape and prohibition of reflective materials, such as highly reflective glass or metals;

5-2101 D. Utilization of native or similar horticultural materials for revegetation and reforestation and guarantees that any needed revegetation or reforestation will be completed during the first planting season after construction;

5-2101 E. Plans to remove and save topsoil, prior to any grading or excavation and replacement, for reuse during revegetation;

5-2101 F. Design and construction plans for roads and associated structures that bear a logical relationship to existing topography to minimize the need for cuts and fills;

5-2101 G. Location and installation of utilities in ways that will cause the least damage to the natural environment; and

5-2101 H. Provisions requiring shielding of exterior lighting to prevent direct visibility of light bulbs from off-site, directing of all exterior lighting toward either the ground or the surface of a building and prohibiting high intensity sodium vapor and similar lighting.

5-2102 Ridgeline and Treeline Limitations in the Telluride R-1 School District

5-2102 A. Ridgeline Development

No portion of any structure (except ski area, public utility and mining related structures) shall be allowed to extend above any ridgeline such that the subject development could be viewed from five miles away or less as silhouetted against the sky from any State Highway, County Road T60 between the Telluride Regional Airport and West Colorado Avenue, and any street in the Town of Telluride, unless the entire subject parcel is ridgeline, or is within a final platted, County approved subdivision. If the entire parcel is ridgeline, any development must comply with all standards of Section 5-2101. If necessary for evaluation of the proposed development, the Planning Director may require an applicant to erect visual devices, such as story poles, prior to issuance of any Development Permit.

5-2102 B. Development Above or Near Treeline

No portion of any structure (except ski area, public utility and mining related structures) shall be allowed above or within 200 vertical feet of treeline, unless the entire subject parcel lies within 200 feet of and/or above treeline, in which case any development must comply with all standards of Section 5-2101.

SECTION 5-22: WETLAND AREAS

5-2201 General

This section of the Code establishes standards for the protection and restoration of wetland areas.

5-2201 A. Purpose

This Section 5-22 is established to regulate development in wetland areas of San Miguel County to protect wetland areas and to protect the health, safety and welfare of the inhabitants of the County. These regulations seek maximum protection of wetland areas and all waters of San Miguel County by avoiding development activity whenever possible, minimizing unavoidable adverse development activity and mitigating the impacts of development on wetland areas.

5-2201 B. Applicability

This Section 5-22 applies to all wetland areas and wetland area buffer zones, and to all waters of San Miguel County. This Section does not repeal, abrogate, or impair any existing federal, state, and/or local laws, easements, covenants, or deed restrictions. However, where this Section imposes more restrictive regulations than those otherwise imposed, the provisions of this Section shall prevail. The provisions of this Section do not apply to normal and customary agricultural and ranching activities, including sale, transfer or conveyance of irrigation water.

5-2201 C. Definitions

- I. "Buffer Zone" shall mean all areas where development could impact wetland areas, extending at least 100 feet around wetland areas.
- II. "Mitigation plan" means a plan approved by San Miguel County describing the restoration of wetland areas destroyed or otherwise negatively impacted by an activity.
- III. "Restoration" means a human activity that returns wetland areas from a disturbed or altered condition with lesser wetland area acreage and/or functional values to a previous condition with greater wetland area acreage and/or functional values.
- IV. "Waters of San Miguel County" means all waters, including without limitation, lakes, rivers, streams (including intermittent streams), natural sloughs, wet meadows, natural ponds, impoundments and tributaries. Waste treatment systems presently in use, including treatment ponds and lagoons designed to meet the requirements of the Clean Water Act (33 U.S.C. § 1341), treated water distribution and storage facilities or treated

water that otherwise meets the criteria of this definition, and water used for irrigation purposes are not waters of San Miguel County.

- V. "Wetland" means an area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. Wetland areas include all waters of San Miguel County, all riparian areas in the County, and are presumed to include all areas identified in "An Ecological Characterization and Functional Evaluation of Wetlands in the Telluride Region of Colorado" (a 1990 report completed for the U.S. Environmental Protection Agency by David J. Cooper), including any amendments thereto, and any wetland areas in the County identified on wetland area maps filed in the County Planning Department.
- VI. "Water Dependent" means associated with activities that require Access, proximity to or siting within the special aquatics Site to fulfill their basic purposed (such as a marina, boat dock or boat launch).

5-2202 Wetland Area Mapping

5-2202 A. Adoption of Wetland Maps

Wetland maps are hereby adopted and may continue to be adopted and modified by Board of Commissioners resolution as part of this section, and shall remain on file in the San Miguel County Planning Department. The maps shall serve as guides only; all wetland areas must be verified on the ground. Wetland areas not shown on the maps but verified on the ground shall be protected as fully as mapped wetland areas.

5-2202 B. Modification of Wetland Area Boundaries

A potential developer shall have the burden of showing that any area delineated on County wetland maps and/or on accompanying reference material should not be classified as a wetland. Wetland boundaries may be modified at the potential developer's expense through the performance of a wetland boundary determination by an expert wetland consultant and established on a plat executed by a Colorado licensed surveyor using the wetland definition in Section 5-2201 C.

5-2202 C. Boundary Modification Application Review

A potential developer desiring to modify a wetland and/or buffer zone boundary must submit an application for such modification to the County for review under the Two-step Process described in Section 3-6 of this Code. If such application is not approved by the Board of Commissioners, the applicant and the Board of

Commissioners may attempt to set mutually agreeable wetland area and/or buffer zone boundaries, relying on the services of an expert wetland consultant and, if necessary, a Colorado licensed surveyor, approved by the Board of Commissioners and paid for by the applicant.

5-2203 Development in Wetland Areas

5-2203 A. Administrative Review

No Development activity shall be allowed within any Wetland or Buffer Zone without a Wetland Special Use Permit issued in compliance with the terms of this section. All activities that are not permitted by Special Use Permit shall be prohibited.

A Wetland Special Use Permit may be issued in accordance with the Administrative Review Process described in Section 3-4 of this Code when the applicant demonstrates to the County's satisfaction that the proposed Wetlands Development satisfies at least one of the following standards/criteria:

- I. The proposed development is required to provide protection against property loss and/or damage.
- II. The proposed development will increase the size and improve the quality of Wetlands, aquatic, and/or riparian habitat, and enhance ecosystem functioning such as improving water quality, wildlife habitat and biodiversity.
- III. The proposed Development is associated with residential Development (construction of Access, utilities and/or a home or homes).
- IV. The proposed Development is associated with a Minor Facility Administrative Review process for Oil and Gas Exploration and Development pursuant to Section 5-2603.

5-2203 B. Two-Step Special Use Permit Review

A potential developer desiring to develop within a wetland or within 100 feet of a wetland must submit an application for approval of such activity to the County for review under the Two-step Special Use Permit Process described in Section 3-6 of this Code. However, when such proposed development comprises construction of access, utilities and/or a home or homes on parcels final platted or otherwise legally created prior to June 4, 1992, such application shall be reviewed in accordance with the Administrative Review Process described in Section 3-4 of this Code. Major Oil and Gas Facility applications shall be processed in accordance with this Section. No development activity shall be allowed within any wetland or buffer zone without a Wetland Special Use Permit issued in

compliance with the terms of this section. All activities that are not permitted by Special Use Permit shall be prohibited.

5-2203 C. Issuance of Wetland Special Use Permits

A Wetland Special Use Permit may be issued only if the applicant has shown at least one of the following:

- I. The proposed activity is water-dependent;
- II. The proposed activity is necessary to achieve access to property, and no other access route avoiding wetland and buffer zone areas is technically feasible;
- III. Denial of the permit sought would result in denying the landowner all practical, reasonable and/or economically viable use of the subject property;
- IV. The proposed activity meets the definition of Essential Services in Article 6 of this Code and could not reasonably be located elsewhere; and
- V. In the case of development proposed solely in a buffer zone, the proposed land use would not adversely affect the adjacent wetland area.

5-2203 D. Criteria for Review of Wetland Special Use Permits

In reviewing applications for Wetland Special Use Permits, the Board of Commissioners shall apply the following criteria:

- I. Avoidance -- Development activity within a designated wetland area should be avoided whenever possible; and
- II. Minimization of Impacts -- The impacts of unavoidable development activity should be minimized by including appropriate project design modifications, control techniques or other conditions deemed appropriate by the County.

5-2203 E. Impact Mitigation for Wetland Uses and Activities

As a condition of Wetland Special Use Permit approval, or in the event of a violation of any terms in this Section 5-22, the Board of County Commissioners may require a mitigation plan. The plan shall require the applicant or developer to engage in the restoration of wetland areas in order to offset, in whole or in part, the wetland losses resulting from an applicant's proposed or violator's historic actions. Approval of such plan by the Board of Commissioners shall not

constitute an alternative to compliance with the standards set forth in this Section 5-22.

5-2203 F. Submission Requirements

An applicant for a wetland special use permit must submit an application in accordance with Section 4-2 of the Code. In addition, an applicant must submit evidence of compliance with the standards described in Sections 5-2203 A., B. and C., and the Board of County Commissioners may require additional information as appropriate.

5-2204 Enforcement

5-2204 A. Inspection of Wetland Area

For the purpose of carrying out the provisions of this Section 5-22, the Board of County Commissioners or its designee may enter upon private land in a reasonable and lawful manner during daylight hours for the purpose of inspection of any wetland area or buffer zone area proposed for development by an applicant for a Wetland Special Use Permit. If denied access for these purposes, the Board of County Commissioners may inspect the subject property after following an appropriate legal process.

5-2204 B. Wetland Restoration

In addition to other remedies prescribed by this Code, the Board of County Commissioners may order wetland restoration measures for the damaged or destroyed wetland by the party responsible for the violation in accordance with section 5-2203 E. If the responsible party does not complete such measures within a period specified by the Board of County Commissioners, the Board of Commissioners may restore the affected wetland at the cost of the responsible party.

SECTION 5-23: AIR QUALITY

The purpose of this section is to ensure that the impacts of development in the Telluride Region on air quality in the Telluride Region are adequately mitigated.

5-2301 Ban on Solid-fuel Burning Devices in Telluride Region

Installation of solid-fuel burning devices, including woodstoves and open fireplaces, is prohibited in the Telluride Region. However, all solid-fuel burning device permits issued prior to June 4, 1992, the effective date of this provision, shall be honored.

SECTION 5-24: EQUESTRIAN CENTERS

This section establishes land use standards for review of development of equestrian centers, which are allowed in the Low Density (LD) Zone District only.

5-2401 Equestrian Center Restrictions

The following restrictions shall apply to all equestrian centers:

5-2401 A. The Planning Commission may limit the number of horses that may be boarded at an equestrian center and the number of allowed parking spaces based on the carrying capacity of the site and compatibility with adjacent uses;

5-2401 B. Restaurants and/or cooking facilities shall be prohibited;

5-2401 C. Any noise source, including any outdoor public address system, which could adversely impact neighboring residential or agricultural uses may be prohibited;

5-2401 D. The County Environmental Health Specialist shall designate and enforce appropriate manure storage and removal and insect control provisions on a site-specific basis; and

5-2401 E. No development may commence until the Board of County Commissioners has approved a landscaping and revegetation plan for the facility, in accordance with Section 4-210 of this Code.

SECTION 5-25: WATERSHED PROTECTION AREAS

5-2501 General

This section establishes land use standards for Watershed Protection Areas as identified by County-adopted Watershed Protection Maps (produced with funding from the U.S. Environmental Protection Agency) based on scientific research conducted by the University of Colorado Institute of Arctic and Alpine Research (INSTAAR). The maps delineate areas of Ecological Sensitivity on the basis of land cover types.

5-2501 A. Purpose

In accordance with the Land Use Code policies set forth in Section 2-14, the purpose of this section is to facilitate restoration and maintenance of Watershed Areas as ecological, drinking water supply and recreational resource areas. Water quality is a key factor in preserving the natural resources and character of the upper San Miguel River. Ecological Sensitivity areas identified on the maps have significant roles in maintaining the integrity of the San Miguel River ecosystem.

5-2502 Watershed Protection Area Mapping

5-2502 A. Adoption of Watershed Protection Maps

Watershed maps that identify Ecological Sensitivity areas are hereby adopted and may continue to be adopted and modified by Board of Commissioners resolution as part of this Section, and shall remain on file in the San Miguel County Planning Department. Wetland and Avalanche areas not shown on the maps but verified on the ground shall be protected to the same degree as mapped Ecological Sensitivity areas. Parcel locations shown are approximate.

5-2502 B. Modification of Ecological Sensitivity Area Boundaries

Anyone proposing to develop within an Ecological Sensitivity area delineated on a County Watershed Area Map may attempt to show that a particular area should not be classified as such. Ecological Sensitivity area boundaries may be modified at a proponent's expense through the performance of a watershed sensitivity boundary determination by an expert in hydrology and water chemistry.

Anyone desiring to modify an Ecological Sensitivity area boundary must submit an application for such modification to the County for review under the Two-step process described in Section 3-6 of this Code. If the Planning Department Staff upon field verification does not agree with a proposed modification based on landscape types present, then, the Board of Commissioners shall agree on a hydrologist expert in water chemistry to perform the work necessary for boundary modification, whose services shall be paid for by the applicant. The applicant

also is responsible for paying for the boundary modification to be mapped on the County Geographic Information System.

5-2503 Ecological Sensitivity Areas

5-2503 A. Areas at Risk for Trace Metal Contamination

Because of the potential for trace metal contamination and acid drainage associated with abandoned mine sites, it is important to manage development so that it would not exacerbate the release of mine-related contaminants into the environment.

For development to be permitted in areas identified as at risk for trace metal contamination, a proponent must first present site-specific data establishing baseline levels in sediments and soil for water quality parameters including but not limited to aluminum, arsenic, bicarbonate, chromium hexavalent, chromium trivalent, copper, cyanide, iron, lead, manganese, mercury, nickel, Ph, sulfate, selenium, silver, and zinc. Then it must be shown that proposed development will not result in an increase in metals concentrations and loading into streams, groundwater, sediments and/or soil resources on-site.

No disturbance of mill tailings, mine waste rock or adit portals shall occur unless authorized by an approved state or federal permit.

5-2503 B. Areas at Risk for Acidification

Because of the potential for introduction of toxic metals into surface waters and resulting negative impacts on biological systems, it is important not to disturb or modify hydrologic pathways and to avoid activities that would cause increased acidity of surface waters. Therefore:

- I. residences shall have footprints 800 sq. ft. or less;
- II. basements and caretaker units shall not be allowed; and
- III. new roads and/or driveways shall only be allowed with Board of Commissioners review (pursuant to Section 5-501 B.) upon demonstration that a proposed road and/or driveway would be the sole reasonable access to the property, and only if:
 - a. roads and driveways are no wider than 10 ft.;
 - b. switchbacks and cuts and fills are minimized to the fullest extent possible;
 - c. blasting is minimized; and

- d. snow plowing and maintenance is prohibited from November 1 through May 1 (snowmobile and snowcat use shall be allowed), except that these standards may be modified by the Board of Commissioners for activities associated with installation, repair and maintenance of public water supply systems.

5-2503 C. Areas at Risk for Eutrophication

Because of the potential for nutrient enrichment or oxygen depletion of surface waters to modify flora and fauna composition, it is important not to disturb or modify hydrologic pathways and to avoid activities that would cause new or increased sources of nitrogen in surface waters. Therefore:

- I. residences shall have footprints 800 sq. ft. or less;
- II. basements and caretaker units shall not be allowed;
- III. individual sewage disposal systems that rely on absorption to dispose of waste water shall not be allowed;
- IV. fertilizer shall not be allowed unless authorized by an approved state or federal permit for mining reclamation, and landscaping with non-native species or that requires supplemental watering after establishment shall be prohibited;
- V. blasting or dynamiting other than that associated with mining or avalanche-control activities shall not be allowed unless authorized by an approved state or federal permit; and
- VII. new roads and/or driveways shall only be allowed with Board of Commissioners review (pursuant to Section 5-501 B.) upon demonstration that a proposed road and/or driveway would be the sole reasonable access to the property, and only if:
 - a. roads and driveways are no wider than 10 ft.;
 - b. switchbacks and cuts and fills are minimized to the fullest extent possible;
 - c. blasting is not utilized; and
 - d. snow plowing and maintenance is prohibited from November 1 through May 1 (snowmobile and snowcat use shall be allowed), except that these standards may be modified by the Board of Commissioners for activities associated with installation, repair and maintenance of public water supply systems.

5-2503 D. Wetland Areas

Development in Wetland Areas or 100-ft. Wetland Area Buffer Zones may only occur pursuant to Section 5-22.

5-2503 E. Avalanche Hazard Areas

Development in Avalanche Hazard areas may only occur pursuant to Section 5-404.

5-2503 F. Source Water Protection Areas

Development in Source Water Protection Areas will be referred to the appropriate public water supply jurisdiction.

SECTION 5-26: OIL AND GAS EXPLORATION & DEVELOPMENT

5-2601 Authority Of Section

In addition to those authorities set forth in Land Use Code Section 1-601, this Section is authorized by C.R.S. §§ 29-20-101 et seq., 30-28-101 et seq.; and Senate Bill 94-177 in which Section 1. states: "The general assembly declares that the purpose of this act is to address the regulatory and enforcement authority of the Colorado oil and gas conservation commission and that nothing in this act shall be construed to affect the existing land use authority of local government entities".

5-2601 A. Purpose of Section

This Section is enacted to protect and promote the health, safety, prosperity, and general welfare of the present and future residents and property owners of San Miguel County. San Miguel County's intent by enacting this Section is to provide for the development of oil and gas resources within the unincorporated area of San Miguel County while mitigating potential land use conflicts between such development and existing, as well as planned, land uses and the natural environment. San Miguel County recognizes that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of severed subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate as is reasonable and necessary to extract and develop their subsurface mineral interests underlying the surface estate, with due regard to the rights and interests of the surface owner, and subject to compliance with the provisions of this Section and any other applicable statutory, regulatory and other applicable legal requirements. This right to the reasonable and necessary use of a portion of the surface does not include the right to unreasonably, unnecessarily, and/or negligently destroy, interfere with or damage the surface owner's correlative rights to the surface. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the development of the underlying mineral estate, which includes access, exploration, and drilling, occur in a reasonable and non-negligent manner, and to have adverse land use impacts upon their property, associated with the development of the mineral estate mitigated, including mitigation required by this Section. Should it be established by competent evidence that a proposed oil and gas facility cannot be operated in compliance with this Section, County land use approval for such a facility may be denied.

In addition, while this Section provides standards for development review of the surface aspects of Oil & Gas Development, consistent with applicable state and federal standards, San Miguel County encourages the use of directional drilling, the placement of multiple wells on a single site, the use of evaporation pits rather than water injection stations, and other innovative techniques, and provides for

the supplemental use of the Bureau of Land Management "Gold Book" (Surface Operating Standards for Oil and Gas Exploration and Development) the Fourth Edition, 2006 or the most current edition, and the "Gunnison Sage-grouse Rangewide Conservation Plan" and the "San Miguel Basin Gunnison Sage-grouse Conservation Plan" as guidance for the land use development review process and the required mitigation of potential impacts. San Miguel County encourages the avoidance of critical wildlife habitat areas, wetland areas, floodplains and geohazard areas. The County also encourages the applicant to provide and operate subject to a Fieldwide Development Plan in order to reduce and minimize potential impacts associated with developing Oil and Gas Wells and Facilities.

San Miguel County discourages activities that include the use of toxic or carcinogenic chemicals during Fracturing and Cavitation of Wells that may adversely affect the quantity, quality or accessibility of the County's underground sources of drinking water.

5-2601 B. Jurisdiction

This Section shall apply to lands within the unincorporated area of San Miguel County, specifically those lands where the surface estate is privately owned or the land is held in Trust by the State Land Board or other non-federal governmental entity, such as lands owned by municipalities, special district, water enterprises, public open space or parks, etc., regardless of the underlying zone district. This Section does not apply to lands where both the surface and the underlying mineral estate are under federal ownership or to oil and gas drilling activities over which San Miguel County's jurisdiction is preempted by federal or state law.

This Section of the Land Use Code, Section 5-26, supercedes all other provisions of the Land Use Code pertaining to Oil and Gas Exploration, Development, and Facilities, except as otherwise specifically provided herein. Minor Facility Oil and Gas Development on Federal Lands (see Land Use Code Section 5-11 Conditional Uses on Federal Lands) is exempt from Section 5-26 Oil and Gas Exploration and Development. Major Facility Oil and Gas Development on Federal Lands is exempt from Section 5-26 but is subject to Section 5-11 standards for Conditional Uses on Federal Lands.

5-2601 C. Use of Term "County"

The use of the term "County" may mean Board of Commissioners (BOCC), Planning Commission, Planning Department, Planning Director, Colorado Oil and Gas Conservation Commission Local Government Designee (appointed by BOCC), County Road Superintendent, County Sheriff's Office, County Weed Advisor, or the County Environmental Health Director.

5-2601 D. Definitions of Minor Facility and Major Facility

I. Minor Oil and Gas Facilities ("Minor Facility") (See Section 5-2603 for Submission Requirements and Review Standards):

- (1) An individual well site or multiple well sites on a single pad built and/or operated to explore for or produce petroleum and/or natural gas (methane), or water injection stations and associated facilities used by a single operator servicing a single oil and gas field in conformance with a permit issued by the Colorado Oil and Gas Conservation Commission, including auxiliary equipment required for such production, i.e., separators, dehydrators, pumping units, tank batteries, and other equipment located within the perimeter of the well site pad, employing engines or motors with a cumulative horsepower rating of less than 200 hp, provided it complies with all applicable standards and requirements. If the well pad exceeds 8 acres in size, consideration shall be given to processing the development as a Major Facility unless it's determined the cumulative impacts will be less than those associated with an additional well pad, based upon Planning Staff's evaluation of the probable cumulative impacts associated with the Facility. This definition of a Minor Facility does not supercede the requirements of Section 5-2603 G. that the well pad be the minimum size necessary to provide a safe work area and minimize surface disturbance.
- (2) Gas gathering lines, flowlines and water collection lines serving oil and gas facilities, including trunk and lateral lines, shall not be subject to the setback standards required for such facilities, but shall comply with other applicable standards in this Section.
- (3) Facilities associated with gas gathering lines and water collection lines, such as: drip stations, vent stations, pigging facilities, chemical injection stations, transfer pump stations and valve box, where such equipment or facilities employ engines or motors with a cumulative horsepower rating of less than 200 hp, which comply with all applicable standards and requirements in this Section.
- (4) An individual well head compression and multiple well compression facility powered by motors or engines with a cumulative horsepower rating of less than 200 hp, which complies with all applicable standards and requirements in this Section.
- (5) Storage yards or construction staging areas occupying one acre or less, and which comply with all applicable standards.

- (6) Geophysical (Seismic) and Gas Exploration Operations to include, but not limited, to seismic activities.

II. Major Oil and Gas Facilities (Major Facility) (See Section 5-2604 Submission Requirements and Review Standards):

- (1) Any facility related to the production of oil and/or gas, including compressor stations and associated facilities which serve a single well or multiple wells employing engines and/or motors with a cumulative horsepower rating of 200 hp or more.
- (2) Water injection stations and associated facilities serving more than one operator or more than one oil or gas field.
- (3) Storage yards and construction staging yards that occupy an area of one or more acres.
- (4) Gas treating facilities that serve multiple wells or gathering systems.
- (5) Pipelines for which the power of eminent domain is available.

5-2601 E. Applicability

This Section is intended to apply in all Zone Districts of the County, including Wright's Mesa (WM) and the West End (WE), and would supercede all other provisions of the Land Use Code pertaining to oil and gas development except as specifically provided for in this Section.

5-2602 General Standards for Minor and Major Facility Applications

5-2602 A. Fee Schedule

See applicable Board of Commissioner Resolution for Fee Schedule.

5-2602 B. Consolidated Applications

In addition to reviewing an application for either a Minor or Major Facility, the applicant shall be entitled to have processed simultaneously any necessary building, access, wetland, or floodplain permits. Additional permit reviews for Minor Facilities may be processed through an Administrative Review subject to the applicable Land Use Code standards. Additional permit reviews for Major Facilities shall be processed through a One-Step or Two-Step review as appropriate subject to the applicable Land Use Code standards. The approval of a Special Use Permit by the Board of County Commissioners is not a site specific development plan approval and does not result in the vesting of development

rights, nor does it permit the violation of any County or State regulations or preclude San Miguel County Building Official, Planning Director, Local Government Designee, or Road and Bridge Superintendent from refusing to issue a permit if the plans and specifications do not comply with applicable County regulations.

5-2602 C. Inspections

The applicant shall provide the telephone number of a contact person who may be reached 24 hours a day for purposes of being notified of any proposed County inspection under this Section or in case of emergency. Any site under an approved Major or Minor Permit may be inspected by San Miguel County at any time, to ensure compliance with the requirements of the approved development plan, provided that at least one hour's prior notice is given to the contact person at the telephone number supplied by the applicant. Field inspections by County staff may include testing for contaminated soils. Persons performing such field inspections for the County shall be deemed licensees for liability purposes pursuant to C.R.S. Section 13-21-115. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) at least one hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. By accepting an approved Major or Minor Facility Permit, the applicant grants its consent to such inspections.

5-2602 D. Enforcement

In addition to any other remedy authorized under this Resolution to enforce the provisions of this Section, the Planning Director or Local Government Designee shall be entitled to draw on any financial guarantee provided to San Miguel County by an applicant pursuant to this Section if the applicant violates any term or condition of an approved development plan and/or approval. If the Planning Director or Local Government Designee has reason to believe that a violation of an approved development plan for which a financial guarantee has been provided has occurred, the Planning Director or Local Government Designee shall provide written notice to the applicant describing the violation, stating that the violation must be corrected within 14 days unless due to the nature of the violation more time is required. If, within that time period, the applicant has not either corrected the violation or filed a written appeal with the Board of County Commissioners, the Planning Director or Local Government Designee shall be entitled to enter upon the site to take any reasonable measures to correct the violation, and may draw on the financial guarantee to cover the costs of corrective measures.

If the applicant files a written appeal with the Board of County Commissioners within 14 days, upon receipt of this written notice, the Board shall schedule a hearing on the appeal at the soonest possible time of which the applicant shall receive reasonable prior notice, a minimum of 72 hours or three (3) working days notice. If the Board determines based on competent evidence at the hearing that

the violation has occurred and has not been corrected, the Board in its discretion may give the applicant additional time to correct the violation or may specify the time at which the Planning Director or Local Government Designee may take appropriate action to have the violation corrected and draw on the financial guarantee to cover the costs of corrective measures.

To insure the County's ability to enforce the provisions of any approved development plan, the Planning Director or Local Government Designee shall not release any financial guarantee provided under this Section until the Planning Director or Local Government Designee confirms that all operations for which the bond has been secured have been completed and all applicable provisions of the Development Permit or Special Use Permit have been complied with. The Planning Director or Local Government Designee shall not release any blanket bond or other blanket financial guarantee provided under this Section unless he/she is satisfied that the person providing the bond has adequately declared its intention to conduct no further oil and gas operations in San Miguel County in the foreseeable future. The Planning Director or Local Government Designee shall also be empowered to release a financial guarantee if a successor to an operator provides satisfactory guarantees in accordance with this Section.

5-2602 E. Liability Insurance

For any Facility permitted under this Section, the applicant shall submit a certificate of insurance to San Miguel County Planning Department, showing that a policy of comprehensive general liability insurance or a self-insurance program approved by the Colorado Insurance Commissioner, in the amount of no less than \$500,000.00 per occurrence, insuring the applicant against all claims or causes of action made against the applicant for damages arising out of the drilling, maintenance, operation or other work done with respect to such proposed facilities. The policy shall be written by a company authorized to do business in the state, unless the applicant is self-insured. The certificate shall require at least 30 days notice to San Miguel County prior to termination of coverage for any reason. If the insurance policy lapses or becomes void for any reason whatsoever, the approval shall cease to be valid until a new insurance certificate is provided and filed with Planning. All approved oil or gas or related activity shall cease, consistent with safety considerations, until the applicant provides evidence that insurance coverage in the prescribed amount is in effect.

5-2602 F. Performance Security

The applicant shall provide one form of the following security to San Miguel County to ensure compliance with mitigation requirements set forth in this Section and specific conditions of approval for facilities: \$5,000.00 performance bond for each Facility; \$50,000.00 countywide blanket bond for all facilities operated by the applicant within San Miguel County; irrevocable letter of credit; or equivalent financial security acceptable to San Miguel County. Conditions of

approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and/or adjacent landowners by the applicable performance standards contained in this Section. Reclamation activities, which fall under C.O.G.C.C. jurisdiction, are exempted from this performance security coverage.

5-2602 G. Roads and Access.

- I. Access Roads. Access Roads serving Minor and Major Facilities, including existing and/or proposed roads that connect such a Facility to a county road or state highway shall be reviewed in accordance with Article 5, Section 5-5 of the San Miguel County Land Use Code. All access and oversize or overweight vehicle permits must be obtained from San Miguel County Road & Bridge Department prior to beginning construction or use of a County road. All proposed transportation routes to the site shall also be reviewed and approved to minimize traffic hazards and adverse impacts on County roadways. Existing roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts are determined to require new or additional roads or unless the applicant demonstrates to the County's satisfaction that it has been unable to obtain authorization to use an existing road.
- II. Private Access Roads. For those Access Roads located between the parcel on which a Minor or Major Facility is proposed and the county road or state highway serving such a Facility, the applicant shall provide written documentation as part of the application demonstrating that it has the legal right to use such road(s) for the purpose of accessing the Facility and the applicant shall demonstrate that such road(s) can provide adequate physical access to such Facility in accordance with applicable Land Use Code standards.
- III. State Highway Access. If access is directly off of a State Highway, the applicant must have an approved State Highway Access Permit for the proposed Facility.

5-2602 H. Emergency Preparedness. Each operator with facilities in San Miguel County is required to provide an emergency preparedness plan. No applications for a Facility shall be considered until the operator has provided such plan to San Miguel County. The plan shall be filed with San Miguel County and updated on an annual basis or sooner, or as conditions change (responsible field personnel change, ownership changes, etc.). The County shall be notified immediately of any changes in responsible field personnel, including contact phone number. The emergency preparedness plan shall consist of the following information, as a minimum:

- I. Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.

- II. A proposed facilities map showing the name, location and description of all facilities, including the size and type of all pipelines and isolation valves (note: isolation valves shall not be operated by anyone except the owner of the pipeline). The operator shall notify the County in writing upon completion of construction of the Facility and shall provide an as-built map to the County within three months of completion of construction. The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (one inch = 2,000 feet), or digitally on San Miguel County geographic information system parcel maps. The as-built facilities map, which includes the information regarding the location of isolation valves, shall be held confidentially by San Miguel County's Emergency Manager and shall only be disclosed in the event of an emergency. San Miguel County's Emergency Manager shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).
- III. Provide a written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.
- IV. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the Colorado Oil and Gas Conservation Commission. This plan shall be coordinated with and approved by San Miguel County's Emergency Manager prior to beginning field operations.

5-2602 I. Fire Prevention. Prior to commencement of operations each operator with facilities in San Miguel County is required to provide a fire prevention response, and safety plan that has been approved by the local fire district or San Miguel County Sheriff, as appropriate.

5-2602. J. Reclamation.

- I. Interim and Final reclamation shall be governed by a reclamation plan for the Facility. The reclamation plan shall provide for a reasonable reclamation schedule in light of the specific surface use and surrounding land uses, and may require recontouring and revegetation of the surface to pre-disturbance conditions equivalent to adjacent undisturbed areas. The County may also approve a plan for an alternative post-disturbance reclamation, provided the surface owner and the applicant agree, and the plan is in harmony with the surrounding land uses and the San Miguel County Land Use Policies and Land Use Code regulations and shall be done in accordance with Chapter 6 of the Bureau of Land Management

"Gold Book". In addition, each operator is encouraged to consult with the responsible official or governing body of an owner's association or common interest community in which the Facility may be located with respect to any weed control, reclamation or mitigation plan that it may have adopted.

- II. Road Design and Construction. Roads should be designed and constructed to allow for successful interim and eventual final reclamation. Revegetation of roads ditches and cut and fill slopes will help stabilize exposed soils and reduce sediment loss, reduce the growth of noxious weeds, reduce maintenance costs, maintain scenic quality and forage, and protect habitat. To ensure successful growth of plants and forbs, topsoil must be salvaged where available during road construction and respread to the greatest degree practical on cut slopes, fill slopes, and borrow ditches prior to seeding. To ensure stability of freshly topsoiled slopes during revegetation, the application of mulch or other sediment control may be appropriate.

The appropriateness of primitive roads or routes is site/use-specific and is typically based on many factors, such as anticipated dry or frozen soil conditions, seasonal weather conditions, flat terrain, low anticipated traffic, or driller's or operator's access needs. Operators should not flat-blade roads. Drainage must be maintained, where appropriate, to avoid erosion or the creation of a muddy, braided road. Resource damage must be repaired as soon as possible and the operator will consult with the County and private surface owner(s) to determine if all or a portion of the road needs to be upgraded to an all-weather access road.

- III. Pipelines and Flowlines. Pipelines and flowlines should be constructed in conformance with the guidelines contained in Chapter 3 of the Bureau of Land Management "Gold Book" and applicable COGCC "pipeline" regulations.
- VI. Reserve Pits. To prevent contamination of ground water and soils or to conserve water, all reserve pits shall be lined with an impermeable liner. An impermeable liner has a permeability of less than 10^{-7} cm/sec. The liner must be installed so that it will not leak and will be compatible with all substances placed in the pit. Fencing of reserve pits is required to prevent access by person, wildlife, or livestock. Netting or alternative method of covering pits acceptable to the County shall be required in order to prevent access and mortality of birds and other animals. Refer to Chapter 4 Construction and Maintenance of the BLM "Gold Book" for more detailed specifications for the methods of lining, fencing and netting of pits.
- VII. Contaminated Soils and Pit Reclamation. The operator shall construct and

manage evaporative or reserve pits in accordance with state and federal regulations. The concentration of hazardous substances in the reserve pit at the time of back filling must not exceed the standards set forth in either the COGCC regulations or in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). All Oil and Gas drilling related CERCLA hazardous substances removed from a location and not reused at another drilling location must be disposed of in accordance with applicable State and Federal regulations. Refer to Chapter 6 Reclamation and Abandonment of the BLM "Gold Book" for specific methods for reclaiming pits.

Written notice, which may be by Email, from the operator shall be sent to the County Planning Department a minimum of 3 working days prior to commencing reclamation of evaporative and reserve pits in order to allow the County, if they elect to do so, to test pit materials to be buried on site for verification of compliance with the allowable concentrations and levels of hazardous substances as described above.

5-2602 K. Surface Damages and Surface Use Agreements. For Major and/or Minor Facilities to be located upon real property with split estates (parcels in which the party owning the severed mineral estate is different from the party owning the surface estate), for which the Operator does not currently own or lease the surface estate, the Operator shall provide a copy of any Surface Damages or Surface Use Agreement that has been executed by the owner(s) of the surface estate for the parcel upon which a Major or Minor Facility is to be located. Such submitted Agreement may be redacted to delete any provisions pertaining to financial and/or non-monetary compensation that the Operator has paid to the surface owner. In lieu of submitting an executed Surface Damages or Surface Use Agreement an Operator may submit a notarized written consent or written waiver to the proposed Major or Minor Facility that has been executed by the owner(s) of the surface estate for the parcel(s) upon which such Facility is to be located. Should the Operator not have entered into a Surface Damages or Surface Use Agreement with owner(s) of a split surface estate it shall submit a written certification to that effect, together with a copy of any bond that has been posted as security for possible surface damages. For Major and/or Minor Facilities located within a parcel or parcels for which the Operator is the current owner or lessee of the surface estate, the Operator shall provide a copy of the current title or lease documentation.

5-2602 L. Air Quality. Air contaminant emissions shall be in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S. and any Air Quality regulations if and when the County adopts such regulations.

5-2602 M. Operational Conflict. Special exceptions to these regulations may be granted where the requirements of this Section of the San Miguel County Land Use Code actually conflict in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be heard in a noticed public hearing by the Board of County Commissioners acting in a quasi-judicial capacity. The applicant shall have the burden of pleading and proving an actual,

material, irreconcilable operational conflict between the requirements of this division and those of the Colorado Oil & Gas Conservation Commission (COGCC) in the context of a specific application. For purposes of this Section, an operational conflict exists where San Miguel County condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the state's interest in the development, production, and utilization of oil and gas resources in the state, and the protection of the public health, safety and welfare. An operational conflict may occur where San Miguel County regulation prohibits an activity, which the Colorado Oil & Gas Conservation Commission, or its valid regulations, has clearly authorized, or authorizes an activity, which the Colorado Oil & Gas Conservation Commission, or its valid regulations, has clearly prohibited. Additional County requirements in areas that may be subject to the Colorado Oil & Gas Conservation Commission regulation, which also fall within County land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which are consistent with the COGCC rules and regulations, shall be presumed not to present an operational conflict. If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this division shall result in an operational conflict with the state statutory and regulatory scheme, a special exception to this section may be granted, in whole or in part, but only to that extent. The Board of County Commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval.

5-2602 N. Location of Major and Minor Facilities on Private Property, lands held by the State Land Board, and Non-Federal Governmental Lands. The following criteria shall be used in siting oil and gas facilities on private property and non-federal governmental lands:

- I. The standards in this code shall not cause or require the operator to site the Facility in: a geologic hazard area, an area with slopes exceeding 30 percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area within a floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or as determined by a state licensed professional engineer.
- II. The following criteria shall be used to site an oil and gas Facility, unless the County determines that it is technically or economically infeasible to satisfy the criteria. Facilities that cannot comply with review criteria may be denied. The mitigation requirements may be waived by the County if existing topography and vegetation are determined to adequately mitigate the visual and sound impacts of the site. The County shall determine the compliance of the proposal and application using the following standards:
 - (a) Facilities shall adhere to the setback and location requirements found in Section 5-2604 G.
 - (b) Facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, lots, and

parcels from Oil and Gas facilities to the maximum extent reasonably possible.

- (c) Facilities shall be constructed using existing infrastructure. This includes, but is not limited to, the use of existing roads, pipeline routes, and well.
- (d) Facilities shall be sited to minimize the impact to agricultural operations.
- (e) Facilities shall be sited in areas that maximize the amount of natural screening available for the Facility. Natural screening includes, but is not limited to, the use of existing vegetation as a background, the construction of the Facility near mature stands of vegetation, the construction of the Facility in canyons or behind ridges and natural rock formations.
- (f) Facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.
- (g) Facilities shall be sited to avoid crossing hills and ridges or silhouetting.
- (h) Facilities shall be sited in order to minimize the amount of cut and fill needed to construct the Facility.
- (i) Facilities shall be sited away from prominent natural features such as distinctive rock and landforms, vegetative patterns, river crossings and other landmarks.
- (j) The provisions of any existing surface use agreement should be taken into consideration regarding the siting of a Facility.
- (k) Facilities shall be sited to minimize the impact on wildlife habitat as identified or mapped by the Colorado Parks and Wildlife, including raptor proofing any potential perching structures in mapped Occupied Gunnison Sage-grouse habitat.

- III. If the Oil and Gas Conservation Commission well location and well spacing rules and regulations require a well to be located contrary to the location required by these regulations, the applicant may apply for a special exception pursuant to Section 5-2604 G. VI. and VII. All such well location special exceptions will be processed as a Two-step Review. The well location as required by these regulations shall be complied with to the maximum extent reasonably possible consistent with the applicable COGCC well location and spacing requirements. The County may impose

additional mitigation measures as are determined to be reasonably necessary to protect the public health, safety, and welfare when the well is not located as required by these regulations.

5-2603 Development of Minor Oil and Gas Facilities

5-2603 A. Administrative Review for an Application for Permit to Drill (APD), Geophysical Operations and Minor Facilities

Applications for county land use approval for proposed Minor Oil and Gas Facilities require a Development Permit, which shall be administratively processed by the Planning Director or a designee, provided the information in the application establishes that the proposed use complies with the minimum requirements for such facilities as set forth in this section. The COGCC Application for Permit to Drill (APD), subject to Planning staff determination of adequacy of this information may suffice as a portion of the application (Development Permit) subject to Administrative Review.

5-2603 B. Submission Requirements for Minor Facilities:

I. General

All Minor Facility applications shall include, at a minimum, the information and materials specified in this section of the Code. The Planning Department staff may authorize modifications to the required submission contents to reduce or eliminate information and materials required for submission.

II. Required Background Information

A letter signed by the applicant containing the applicants name, address and telephone number, fax number, email address, and if applicable, the same information for the representative authorized to act on behalf of the applicant.

III. Copies of Application

The applicant shall submit three complete copies of the application.

IV. An application for a Minor Facility (see 5-2503 C. for Geophysical-Seismic Operation submittal) shall include a Development Plan, which shall include the following:

- a. Well Plat certified by a registered surveyor.
- b. A Drilling Plan
- c. A Surface Use Plan: to include well location, direction to well site,

legal and physical access to and within the site, new and existing roads, facilities to be constructed on site, location of water supply, waste disposal, surface restoration (revegetation), weed control plan, pipelines and flow lines (existing and proposed), wildlife habitat.

- d. Verification of Bond to the County to cover the operations.
- e. Operator certification.
- f. Site Specific Plan showing location of well, pad size, accessory structures, topsoil stockpile, reserve pit, etc. must be representative of what is proposed for the specific site being applied for (a generic site plan is not acceptable), and describing the location of the Facility's perimeter.
- g. List of all ancillary equipment to be used on site.
- h. List of hazardous materials to be used.
- i. Statement of compliance with Noise mitigation per Section 5-2604 D.
- j. Statement of compliance with the visual impact standards contained in Section 5-2604 E. III, IV. and V.
- k. Demonstration of compliance with Setbacks per Section 5-2604 G.
- l. Any other uses, including but not limited to employee/worker housing.
- m. The identification of any wildlife habitat as mapped by the Colorado Parks and Wildlife (structures should include raptor perching deterrents in Colorado Parks and Wildlife mapped Occupied Gunnison Sage-grouse habitat).
- n. A description of the location of the Access Road proposed to serve the Facility and documentation demonstrating the existence of legally and physically adequate access to the proposed Facility, or the ability to construct such access.
- o. Provide a copy of the State Water Quality Control Division Stormwater Permit and Stormwater Management Plan, if it is not already filed with the County.

5-2603 C. Submission Requirements for Geophysical (Seismic) Operations:

I. General

All Geophysical Operation applications for land use approvals shall include, at a minimum, the information and materials specified in this section of the Code. The Planning Department staff may authorize modifications to the required submission contents to reduce or eliminate information and materials required for submission. A complete application shall include any and all applicable Federal, State and/or Private land leases (or memoranda thereof) and permits.

II. Required Background Information

A letter signed by the applicant containing the applicants name, address, telephone number, fax number, email address, representative authorized to act on behalf of the applicant and if applicable, the same information for the representative authorized to act on behalf of the applicant.

III. Copies of Application

The applicant shall submit three complete copies of the application.

IV. An application for a Geophysical (Seismic) Operation shall include a Development Plan, which shall include the following:

- a. A Surface Use Plan to include general location of shothole exploration, access, new and existing roads, surface restoration (revegetation), and weed control plan
- b. Verification of Bond to the County to cover operations.
- c. Operator Certification.
- d. List of hazardous materials to be used.
- e. Identification of any wildlife habitat as mapped by the Colorado Parks and Wildlife.
- f. Provide time period, duration and any seasonal restrictions per the Colorado Parks and Wildlife and/or applicable Federal and/or State Permits.
- g. Documentation authorizing the proposed Geophysical (Seismic) Operation executed by the owner or lessee of the mineral estate(s) and from the surface owner of a split estate(s) that is the subject of such Geophysical Operation, if obtained and available.

5-2603 D. Notice to Adjacent and Affected Property Owners

Written Notice shall be provided to affected surface owners for all Minor Facility applications. Email notice to surface owners is encouraged if Email addresses are available from the County Assessor's Office. The applicant shall present proof of such notice by submitting a copy of the letter and a list of the landowners notified, together with an affidavit attesting to such notice executed by the person responsible for providing such written notice, to the Planning Department. This notice to affected owners shall be mailed not more than twenty days nor less than seven days prior to the application being submitted to the Planning Department. The notice to affected owners shall provide a statement that all written comments must be provided to the County Planning Department within 15 days, after the date of filing of the application, as stated in the Notice, with the County Planning Department except where the APD is the first well to be developed in a Residential Area the notice shall provide a statement that all written comments must be provided to the County Planning Department within 30 days of the mailing of the notice. The notice to affected owners shall include the date the application is to be filed with the County. Notice of the application shall be made as follows:

1. To the current surface owners of the parcel(s) of land within which the Minor Facility is proposed to be located, as well as the current surface owners of those parcels of land within ¼- mile (1,320 feet) of the subject site and the owners of real property adjacent to or through which any private Access Road extends. Such notice shall include the proposed Minor Facility location. Ownership may be determined from the current property tax records of the county assessor's office. For the purposes of notice, a surface owner shall receive notice if its property boundary is within ¼-mile (1,320 feet) from the point indicated as the wellhead (the wellhead is indicated by feet from section lines) or, for Minor Facilities, other than wells, from the Facility perimeter as depicted on the Development Plan.

In addition to the required written notice under this provision, the applicant shall make a good faith effort (at a minimum contacting the County Planning Department and checking the records of the County Clerk and Records Office) to ascertain if any of the landowners required to be provided written notice, as part of an application, are also members of a condominium association or homeowner's association. If the result of the good faith examination identifies the existence of such condominium association or homeowner's association, the applicant shall provide written notice to these associations in the same manner as other landowners. Email notice to these associations is encouraged if Email addresses are available from the County.

2. The notice of the application for approval of a Minor Facility shall contain the following (see Attachment A):

- (a) A description of the proposed Facility site location, including a legal description, as well as a street address for the site, if

available, from the County Addressing Official.

- (b) The identification of the applicant and its designated agent for the application, if any, the current business address, telephone number, fax number, and email address for the applicant and its agent, if one has been designated, and a brief description and general map of the proposed Access Road, construction, facilities and equipment proposed to be located at the site while under construction, during drilling and completion and after the Facility is operational.

3. Posting of notice shall be made by the applicant by posting a sign (to be obtained from the County) in a conspicuous place on the property or closest public roadway within 5 days of submittal of the application to the Planning Department.

5-2603 E. Determination of Compliance and Approval or Denial of Application

If the application is found to be complete, as required by this section, Planning shall then review the application for compliance with applicable standards and requirements within this Section. Planning may require more information based upon the review of the application, but Planning shall complete its review, and approve, approve with conditions or deny the application, within 30 working days of submittal of a complete application, except where the APD is the first well to be built in a Residential Area the review shall be completed within 45 working days. Planning shall determine if additional information is required within 10 days of receiving an application. If additional information is required it shall be submitted within 10 days of written request. Planning shall complete its review of the application within 15 days of receipt of the requested information unless more time is required, to conduct a site visit due to inclement weather.

5-2603 F. Review Standards for Minor Facilities

Planning shall review the application to determine compliance with review standards for Minor Facilities.

- I. The siting of a Facility shall lie within the Colorado Oil & Gas Conservation Commission determined drilling window, or in a location that complies with Colorado Oil & Gas Conservation Commission rules and regulations.
- II. Minor Facilities shall comply with the requirements of Section 5-2602 N.

5-2603 G. Pad Size. Pad dimensions for a Minor Facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance and shall not exceed 8 acres. If the well pad exceeds 8 acres in size, consideration shall be given to processing the

development as a Major Facility unless it's determined the cumulative impacts will be less than those associated with an additional well pad, based upon Planning Staff's evaluation of the probable cumulative impacts associated with the Facility. Applicant shall provide an explanation and rational basis for the proposed Pad Size.

5-2603 H. Gathering System Lines. Gas gathering lines for any Facility shall be shown on the site plan for each individual well when such lines are proposed. A revegetation plan shall be submitted for all gathering lines, which shall include sufficient procedures for seeding, crimping and weed control. A weed control plan shall be included to control weeds listed on the San Miguel County Noxious Weed list. Prior to installation of gathering lines, a Special Construction Permit shall be obtained from the Road and Bridge Department for road crossings and work in County rights-of-way or a County Road, where necessary. A final as-built plan sufficient to locate final constructed gathering lines shall be provided to the County within 6 months of completion.

5-2603 I. Appeal of Planning Director Administrative Decision

An applicant or other affected and aggrieved person(s) may appeal the Planning Director's decision by submitting a letter that sets forth the grounds for the appeal, addressed to the Planning Director requesting an appeal, within 14 days of the Administrative Decision. The Board of County Commissioners shall conduct a public meeting within 30 days to consider such an appeal. The Board shall render its written decision within 15 days of the date of the appeal hearing, which decision shall constitute the final action of the County.

5-2603 J. Commencement, Duration and Modification of Development Permit

Development Permits or Approvals granted for Minor Facilities shall expire or be considered revoked if construction of the Facility is not commenced within two years of the date of approval or if the permit from the Colorado Oil and Gas Conservation Commission for the Minor Facility expires or terminates, whichever first occurs. The Development Permit or Approval shall become effective on the date of the approval by the Planning Director or Designee. If an applicant desires to modify the subject Facility by changes to equipment, site layout, approved operating plan, Access Road, etc. an amendment to the original application shall be submitted for review and approval. Planning shall determine whether the modification is an administrative review or is considered a major revision and process the application accordingly. Recompletions and Subsequent Well Operations for any well shall require the operator to provide notice to the County of such work at least 7 days prior to the date of estimated commencement of operation with heavy equipment.

5-2604 Development of Major Oil and Gas Facilities

5-2604 A. Special Use Permit Required (Two-step Review)

Development of Major Oil and Gas Facilities within the unincorporated areas of San Miguel County, as to which jurisdiction has not been preempted by state or federal law, shall be subject to the provisions of this Section and all other applicable Land Use Code Sections including Sections 5-4 Areas and Activities of Local and State Interest/"1041" Environmental Hazard Review, 5-21 Scenic Quality, 5-22 Wetland Areas, and 5-25 Watershed Protection Areas, of the San Miguel County Land Use Code, as well as any state or federal entities or agencies having jurisdiction over such development. Construction, installation and operation of oil and gas facilities, which are subject to this Section shall not commence until a Special Use Permit has been granted by San Miguel County. Section 5-10 Special Uses shall not apply to Oil and Gas Development except as specified in Section 5-2604 B. VII.

5-2604 B. Submission Requirements for Major Facilities.

I. General

All applications for land use approvals shall include, at a minimum, the information and materials specified in this section of the Code. The Planning Department staff may authorize modifications to the required submission contents.

II. Required Background Information

A letter signed by the applicant containing the applicant's name, address, telephone number, fax number, email address, and if applicable, the same information for the representative authorized to act on behalf of the applicant.

III. Copies of Application

The applicant shall submit three complete copies of the application.

VI. Notice to Adjacent and Affected Property Owners – (see Attachment A)

Two-step reviews require that the notice to adjacent and affected property owners include the date, location and contact information for the time of the public meeting. The notice shall also include a provision that encourages the adjacent and affected property owners provide written comments no later than one-week prior to the meeting date in order to be included in the meeting packets, although comments will be accepted up to the public meeting date. Not less than 14 days, nor more than 30 days prior to the public meeting established to consider the Major Facility application, legal notice of the public meeting before the board of commissioners shall be published in a newspaper of general circulation within the county, and written notice shall be given individually to the following:

1. The owners, as recorded in the records of the county, of any land

adjacent to or located within ¼-mile (1,320 feet) of any portion of the boundary of the parcel or tract containing the subject site and owners of each parcel of real property adjacent to or through which the designated Access Road extends from the nearest public road. Such notice shall be sent by the applicant or Planning Department at the applicant's expense at least 20 days prior to the scheduled meeting date. Email notice to adjacent and affected property owners is encouraged if Email addresses are available from the County Assessor's Office. Persons notified and the distance of notice may be increased at the discretion of the County based upon size and scale of the proposed Facility, surrounding land use pattern and perceived impacts.

In addition to the required written notice under this provision, the applicant shall make a good faith effort (at a minimum contacting the County Planning Department and checking the records of the County Clerk and Records Office) to ascertain if any of the landowners required to be provided written notice, as part of an application, are also members of a condominium association or homeowner's association. If the result of the good faith examination identifies the existence of such condominium association or homeowner's association, the applicant shall provide written notice to these associations in the same manner as other landowners. Email notice to these associations is encouraged if Email addresses are available from the County.

2. The public notice shall include the following:
 - (a) A description of the location of the Facility (including a legal and practical locational description and a vicinity map), a general site plan, a vicinity map which includes the designated Access Road to the Facility, and the proposed activity under review.
 - (b). Time and place of the public meeting.
 - (c) The name and address of the applicant and/or its designated agent, and a statement that additional information may be obtained from the Planning Department.
3. Posting of notice shall be made by the applicant by posting a sign (to be obtained from the County) in a conspicuous place on the property or closest public roadway at least 20 days prior to the scheduled meeting date.
4. The applicant shall present proof of such notice by submitting a

copy of the letter and a list of the landowners notified, together with an affidavit attesting to the mailing of such notice executed by the person responsible for providing such written notice, to the Planning Department.

V. The following information shall be submitted:

1. A vicinity map indicating the section, township, and range of the site, and its relation to surrounding public roads and municipal boundaries.
2. A detailed drawing of the site at a scale of 1 inch to 100 feet, or other scale as determined to be appropriate by the Planning Department, which shall include the following:
 - (a) The dimensions of the site, indicating area in square feet and acres, and the area of the site to be disturbed;
 - (b) The location of all structures, flow lines or pipelines, gathering systems, tanks, wells, pits, and any other oil and gas operation facilities or equipment associated with the proposed oil and gas Facility;
 - (c) Existing and proposed roads to and within the site as well as a description of the designated Access Road(s) from the nearest public road that will be used to access the proposed Facility for construction, operations and maintenance.
 - (d) All pipelines, (underground and surface) if applicable;
 - (e) On-site features such as floodplain designations, water courses, drainage, utility lines and easements, ditches, wetlands or aquatic habitat, significant plant ecosystems, geologic features, vegetative cover, dams, reservoirs, mines, and known cultural resources; existing and proposed topography of the site at contour intervals of not more than five feet; and existing and proposed vegetation, buffers, berms, fences, and other screening devices.
 - (f) Adjacent properties and the approximate location of buildings and their uses within a distance of 400 feet of any proposed structure, facility, or area to be disturbed.
 - (g) Identification of wildlife habitat areas and migration routes as mapped by the Colorado Parks and Wildlife, and

provisions for raptor proofing structures to prevent perching.

- (h) Provide a copy of the State Water Quality Control Division Stormwater Permit and Stormwater Management Plan, if it is not already filed with the County.
- 3. Copies of application forms for all applicable local, state, or federal permits, including, but not limited to, Oil and Gas Conservation Commission Forms 1, 2, and 2a (Registration for Oil and Gas Operations, Application for Permit, Drill Site/Access Road Reclamation Forms).
- 4. In the event the Major Facility is not a well, the applicant shall provide proof of ownership or a surface lease authorizing the proposed use and Facility.
- 5. Copies of financial guarantees in the form of bonds, letters of credit, cash, certificates of deposit, individual bonds posted with the Oil and Gas Conservation Commission. In addition the County may require the operator of a Major Oil and Gas Facility in San Miguel County to provide financial guarantees as necessary and determined reasonable by the Board of County Commissioner's to secure the objectives of these LUC provisions and to adequately address and potentially mitigate surface impacts, such as noise, visual, reclamation, revegetation, weed control, and damage and/or impacts.
- 6. An operation plan including the method of and schedule for the initiation, construction, operation and reclamation of the operation, to the extent applicable.
- 7. An emergency response plan meeting the requirements of this Section (see Sections 5-2602 H. and I.).
- 8. A reclamation plan meeting the requirements of this Section, including proposed recontouring, revegetation or other appropriate measures to restore the surface while operations proceed or after they cease (see Section 5-2602 J.)
- 9. A noise, odor, and dust abatement plan to prevent impacts on this and adjacent properties.
- 10. Any proposed measures necessary to mitigate anticipated adverse impacts on the aesthetic features of the site, views from surrounding properties or public rights-of-way, or on significant

environmental resources such as wetlands or plant and wildlife habitats.

11. An Access Road designation and transportation route plan for all related facilities.
12. A waste disposal plan.
13. A drainage and erosion control plan for both on-site and off-site drainage to address storm water runoff during site construction, as well as, after construction of the Facility.
14. A weed management plan.
15. Written documentation that adequate legal and a physical access exists or can be constructed to serve the Facility.

VI. Commencement, Duration and Modification of Special Use Permit.

Approval granted for a Major Facility shall commence in accordance with Land Use Code Section 5-1002 F. (unless a phased plan is approved through the review process). The Special Use Permit shall become effective on the date of written approval by the County. If an applicant desires to modify the subject Facility by changes to equipment, site layout, approved operating plan, etc. an amendment to the original application shall be submitted for review and approval. Planning shall determine whether the modification has substantial impacts and is considered a minor amendment pursuant to Section 5-1003.

5-2604 C. Review Standards:

The Board of Commissioners' decision to approve or deny an application for a Major Facility shall be made and determined based upon its compliance with all applicable performance standards and other requirements of this section and by applying the following criteria to the evidence in the record of proceedings before the commissioners:

- I. Need. The demonstrated need for the Facility, in the location proposed, to serve the applicant's existing and projected oil and gas development, production and operational requirements.
- II. Suitability. Suitability of the location of the proposed Facility given its size, design and operational characteristics. Factors to be considered include noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety. These factors will be evaluated in

accordance with applicable state, county and federal standards and criteria.

- III. Legal and Physical Adequacy of the Proposed Access Road. Factors for consideration are existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses; satisfactory written documentation of the Applicant's legal right to use the proposed Access Road to serve the Facility; and physical adequacy of the proposed Access Road to serve the Facility.
- IV. Site characteristics. Factors to be considered are topography, natural hazards (landslides, flooding, wildfire), and current resource values (open space corridor, prime farmland as designated by Soil Conservation Service and wildlife habitat (including lands designated under the County PDR program as well as other conservation easements).
- V. Compatibility. Compatibility with existing uses and those which can be reasonably anticipated, based upon present subdivision and land use approvals for properties located within the surrounding affected area, as determined by the commissioners, based upon competent evidence in the record. A Facility's compatibility with land uses in the surrounding area, which the commissioners find will be affected by its operation, shall be determined by the Facility's estimated or projected ability to mitigate the impacts which it generates, as set forth in the Facility operational plan, and in accordance with applicable county, state and federal rules, regulations and standards.
- VI. Pad dimensions for a facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance.
- VII. Major Oil and Gas Facilities shall also be reviewed for general consistency with the standards and policies set forth in the following documents:
 - (a) San Miguel County Land Use Code Section 5-26: Oil and Gas Exploration and Development;
 - (b) San Miguel County Land Use Code;
 - (c) San Miguel County Comprehensive Development Plan (Master Plan);
 - (d) Other applicable local, county, state and federal plans, policies and regulations.
 - (e) Bureau of Land Management, Surface Operating Standards for Oil

and Gas Exploration and Development "Gold Book".

- (f) "Gunnison Sage-grouse Rangewide Conservation Plan" (Colorado Parks and Wildlife) and the "San Miguel Basin Gunnison Sage-grouse Conservation Plan".

5-2604 D. Noise

- I. Any equipment used in drilling, completion, or production of a well must comply with the maximum permissible noise levels set forth in the applicable COGCC Regulation Section 802 Noise Abatement (see Attachment B).
- II. Where a Facility does not comply with the required setback or other portions of the performance standards, additional noise mitigation may be required but shall be consistent with the standards of COGCC Rule 802. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to, the following:
 - (a) Nature and proximity of adjacent development (design, location, type). Prevailing weather patterns, including wind directions.
 - (b) Nature and proximity of adjacent wildlife habitat.
 - (c) Vegetative cover on or adjacent to the site.
 - (d) Topography.
- III. Based upon the specific site characteristics set forth in this Section, nature of the proposed activity and its proximity to surrounding development and wildlife habitat and type and intensity of the noise emitted, additional noise abatement measures may be required, but abatement measures must be consistent with the standards of COGCC Rule 802. The level of required mitigation may increase with the proximity of the Facility to existing residences and platted subdivision lots and wildlife habitat, and/or the level of noise emitted by the Facility. One or more of the following additional noise abatement measures, listed below in ascending order of mitigation, may be required:
 - (a) Acoustically insulated housing or covers enclosing any motor or engine;
 - (b) Screening of the site or noise emitting equipment by fence or landscaping;
 - (c) Solid wall or fence of acoustically insulating material surrounding

all or part of the facility.

- (d) A noise management plan specifying the calendar period and/or hours of maximum noise and the type, frequency, and level of noise to be emitted; and
- (e) Any other technically feasible and cost effective noise mitigation measures required by the County.
- (f) Construction of buildings or other enclosures may be required where facilities create noise and visual impacts that are nonmitigable because of proximity, density and/or intensity of adjacent land use.

5-2604 E. Visual Mitigation

- I. Visual Mitigation Plan. A visual mitigation plan shall be required for all new facilities and/or expansion of existing facilities. The plan shall incorporate the appropriate design elements of this Section. The requirement for a visual mitigation plan may be waived by the Board of County Commissioners, the Planning Director or the Local Government Designee, if a plan is deemed unnecessary to preserve the Scenic Quality in conjunction with the proposed development of the Facility visible from neighboring developments and public use areas in accordance with the Policy set forth in Section 2-12 Scenic Quality and Section 5-21 Scenic Quality.
- II. The visual mitigation plan minimum requirements are as follows:
 - 1. Scaled drawing.
 - 2. Site boundary dimensions and descriptions.
 - 3. Existing and proposed contours and pad elevations.
 - 4. Existing conditions and site features including wildlife habitat that incorporate and surround such site to be developed.
 - 5. Existing and proposed access.
 - 6. Cross-section of existing and proposed contours, if applicable and when necessary to demonstrate compliance with the applicable Scenic Quality standards in LUC Section 5-21.
 - 7. Orientation and dimensions of facilities (pump jacks, buildings, etc.).

8. Description of existing and proposed vegetation.
9. Location, height and extent of any proposed perimeter berms, if applicable.
10. Type, location and amount of mulch materials, if applicable.
11. Type, location and height of any existing and/or proposed fencing, if applicable.
12. Delineate drainage and runoff patterns and mitigation.
13. Direction and type of lighting, if applicable.
14. Written maintenance and irrigation plan for proposed or required revegetation for at least one year after revegetation.
15. Title block:
 - (a) Name of development;
 - (b) Name of applicant or developers;
 - (c) Project number;
 - (d) Date of preparation; and
 - (e) Section, township and range.
16. Vicinity map:
 - (a) Major roads, adjacent subdivisions and town boundaries;
 - (b) Section, township and range; and
 - (c) Rivers, streams, ponds and wetlands.
17. Performance security. For sites requiring a visual mitigation plan, performance security shall remain in place for at least one year after installation of the plant and landscape materials. The performance security shall be of an amount sufficient to cover the costs of the proposed improvement or the bonding requirements set forth in Section 5-2602 F. Performance Security.

III. Visual impacts.

1. To the maximum extent reasonably feasible, the applicant shall use structures of minimal size to satisfy present and future functional requirements.
2. When clearing trees and vegetation for construction of facilities, the applicant shall feather and thin edges of vegetation.
3. The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
4. To the maximum extent possible, the applicant shall align Access Roads to follow existing grades and minimize cuts and fills.
5. Facilities shall be painted as follows:
 - (a) Uniform, noncontrasting, nonreflective color tones, similar to standardized colors as used by Bureau of Land Management color charts.
 - (b) Color matched to land, not sky, slightly darker than adjacent landscape.
6. The applicant shall minimize damage to existing trees and vegetation.
7. Within three months for crop land and twelve months for non-crop land, after well completion, or six months for non-well Major Facilities, the pad area (except the main Access Road and the immediate areas surrounding the aboveground facilities, which are necessary for safe operations, and which are to be graveled) shall be reseeded with native grasses or existing vegetation acceptable to the surface owner and in compliance with the County Land Use Code.
8. One or more of the following landscape practices as described in Section 5-2101 and below shall be applied, on a site-specific basis:
 - (a) Establishment of berms, ground covers, shrubs and trees.
 - (b) Shaping cuts and fills to appear as natural forms.
9. Exterior lighting, when required, shall meet the standards set forth under Land Use Code Section 5-2101 H. All lighting associated with oil and gas development will be shielded to prevent direct visibility of light bulbs from off-site, directing all exterior lighting

either toward either the ground or the surface of the building and prohibiting high intensity sodium vapor lighting. Lighting shall be used as needed rather than all of the time to the extent possible given safety requirements.

10. All equipment used for drilling, re-drilling, well completion and recompletion and maintenance of the Facility shall be removed from the site within thirty (30) days of completion of the work for which the equipment is used, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed, unless otherwise agreed to by the surface owner and determined by San Miguel County to be in conformance with the applicable LUC standards.

11. The applicant is encouraged to use low profile pumps and equipment to mitigate visual impacts.

IV. Additional Visual Mitigation in Visually Sensitive Areas. In addition to visual mitigation requirements set forth in this Section, well sites located within a visually sensitive areas, such as but not limited to scenic highway setbacks (Section 5-505), scenic foreground and scenic view plane zone districts (Section 5-316), shall be mitigated according to the provisions of this Section. Any well within a visually sensitive area shall use an appropriate mitigation measure in accordance with the applicable provisions of the Land Use Code.

V. Other special mitigation measures.

Construction of buildings or other enclosures may be required where facilities create noise and visual impacts that are nonmitigable because of proximity, density and/or intensity of adjacent land use.

5-2604 F. Water.

An approved or conditionally approved Facility shall comply with the following requirements:

- I. Comply with Oil and Gas Conservation Commission water well testing and water-bearing formation protection procedures and requirements.
- II. All Test and Survey reports and water well testing information that have been required by COGCC to determine the presence of waste or occurrence of pollution, as well as, the results from well-head monitoring to allow safe and convenient determinations of pressure and fluid flow

shall be forwarded to the Planning Director or Local Government Designee.

- III. All oil and gas operations shall comply with all applicable state water quality standards and classifications established by the Water Quality Control Commission.
- IV. Comply with the Water Right Determination and Administration Act and the Ground Water Management Act for beneficial uses of produced water related to coalbed methane production.
- V. Identify physical source of water and legal entitlement to use of such water (e.g., Water Court decree) for irrigation, dust control and drilling.

5-2604 G. Setbacks.

In order to buffer oil and gas operations from surrounding properties, wells and any associated oil and gas operation Facility or structure requiring a Minor Facility Development Permit or Major Facility Special Use Permit shall meet the following setbacks:

- I. A minimum of 400 feet from the site perimeter of the Facility (for wells, site distance shall be measured from the well head) and any existing residence, occupied building or occupied building permitted for construction, unless verified written consent is obtained from the affected property owner, or in the case of wells, the COGCC fails or refuses to approve a well site location that complies;
- II. A minimum of 200 feet from the site perimeter of the Facility and the closest platted subdivision lot line, unless verified written consent is obtained from the affected property owner; and
- III. A minimum of 200 feet from the site perimeter and any public right-of-way.
- IV. A smaller set back may be granted by the County if the surface owner agrees and if there is no adverse impact on adjacent properties created by the reduced setback. No reduction in setback, however, shall violate the setbacks of the applicable zoning district in which the operation is located.
- V. If the Colorado Oil & Gas Conservation Commission rules require location of wells at a distance less than these minimum requirements, the applicant shall apply for a special exception pursuant to Section 5-2604 G. VI. and VII. All such well location special exceptions will be processed as a Two-step Review. If such a variance is not granted, the setbacks specified in these regulations shall be complied with to the maximum

extent possible. The County may impose additional mitigation measures as necessary to protect the public health, safety, and welfare where these setbacks cannot be met.

VI. Special Exception Requests.

- (a) Special exceptions to the setback requirements may be requested by the applicant. All applications where a special exception is requested will be processed as a Two-step Review. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:
 - (1) Topographic characteristics of the site;
 - (2) Duration of use of the Facility;
 - (3) Proximity of occupied structures to the Facility;
 - (4) Ownership status of adjacent and/or affected land;
 - (5) Construction of adequate infrastructure to serve the project; and
 - (6) Planned replacement and/or upgrading of Facility equipment.
- (b) If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with the regulations of this section is impossible, a special exception may be granted by the Board of County Commissioners for a period of time not to exceed six months. The applicant must initiate construction of the Facility within 6 months or the time period specified by the Board of Commissioners. Prior to expiration of the specified time period, the application shall receive additional review by the Board of County Commissioners in accordance with this code. The County, upon showing of good cause by the applicant, may:
 - (1) Further extend the special exception;
 - (2) Require that the Facility be brought into compliance with the performance standards; or
 - (3) Revoke the special exception approval.

VII. Operational Conflicts Special Exception.

- (a) Special exceptions to the setback requirements may be granted where the requirements of this section actually conflict in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be processed as a Two-step Review and heard in a noticed public hearing by the board of county commissioners acting in a quasijudicial capacity, pursuant to C.R.S. §§ 30-28-117 and 30-28-118. The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operation conflict between the requirements of this section and those of the Oil and Gas Conservation Commission in the context of a specific application. For purposes of this section, an operational conflict exists where the county condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the state's interest in the development, production, and utilization of oil and gas resources in the state, and the protection of the public health, safety and welfare. An operational conflict may occur where the county regulation prohibits an activity, which, the Oil and Gas Conservation Commission, or its valid regulations, has clearly authorized, or authorizes an activity, which the Oil and Gas Conservation Commission, or its valid regulations, has clearly prohibited. Additional county requirements in areas regulated by the Oil and Gas Conservation Commission, which also fall within county land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant, shall be presumed not to present an operational conflict. If the board of county commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this section shall result in an operational conflict with the state statutory and regulatory scheme, a special exception to this section may be granted, in whole or in part, but only to that extent. The board of county commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval.
- (b) If the applicant or any interested party wishes to seek judicial review of a final board of county commissioners' decision on the exception request, appeal to the district court shall be pursuant to C.R.C.P. Rule 106 (a) 4.

The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Access Road

A road located on private property between the site on which a Minor or Major Facility is located and the county road or state highway serving such a Facility constructed in accordance with the applicable Land Use Code standards.

Agricultural

Currently in use for farm or ranch purposes, including pasture.

Applicant

That person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question; generally, the applicant will be the owner or lessee of the mineral estate.

Collection line

A pipeline to a well designed to collect produced or waste water and transport it to a central disposal area (evaporation pit or injection well).

Compatible/Compatibility

Able to exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses.

Compressor station

An installation consisting of one or more individual compressors, located on a gathering or transmission line, or both.

Contaminated soil

Soils impacted by production operations in a way that adversely affects their ability to support normal uses or could adversely affect water quality in the future.

Corridor

The route within which a pipeline right-of-way is located.

Designated agent

An agent designated by the owner or lessee, as defined by the Colorado Oil & Gas Conservation Commission.

Easement

Authorization by a property owner for the use of a designated portion of his or her property by another, for a specified purpose.

Evaporation pit

An excavated pit used for storing and evaporating wastewater produced in degasification activities, during drilling or production, or both, sometimes lined.

Facility

Means either a Minor Facility or Major Facility as defined in Section 5-2601 D.

Fieldwide Development Plan

A comprehensive development plan for a proposed or defined oil and gas field(s) or a limited geographic area within a field. The plan will include a map showing optimal locations for wells, production facilities, access routes, flowlines and utilities. This is intended to be a working document meant to guide APD submissions.

Flow Line

Shall mean those segments of pipe from the wellhead downstream through the production facilities ending at: In the case of gas lines, the gas metering equipment; or In the case of oil lines, the oil loading point or LACT unit; or in the case of water lines, the water loading point, the point of discharge to a pit, or the injection wellhead.

Gas well

A well having a pressure and volume of natural gas, specifically, producing methane, often in combination with a variety of other substances such as butane, propane and carbon dioxide.

Gathering system

All pipelines from the meter at the end of the flow line to the compressor station. A system consisting of well (or gathering), lateral, and trunk pipelines transporting oil, gas or other products derived from oil and gas production to a central facility or transmission line, and so classified under the United States Department of Transportation and/or COGCC regulations.

Geophysical Operation

See Seismic Exploration/Operation

Gold Book

Shall mean the "Surface Operating Standards for Oil and Gas Exploration and Development" prepared by the United States Department of the Interior Bureau of Land Management and United States Department of Agriculture Forest Service, Fourth Edition, 2006 and any amendments to date.

Gunnison Sage-grouse Rangewide Conservation Plan

Shall mean the "Gunnison Sage-grouse Rangewide Conservation Plan dated April 2005, Bureau of Land Management, and any amendments.

Lessee

The individual or firm leasing mineral rights for development purposes from the owner. The lessee may also be the permittee, for the purposes of this Section.

Operating plan

A general description of a facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, and any other information related to regular functioning of that facility.

Operator

That individual or firm engaged in all or a portion of the extraction operations at a well or other facility; usually the lessee of the mineral estate, although day-to-day operations may be contracted to another firm.

Pad Area

Shall mean the areas, which are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well, or injection well, excluding the access road.

Pad Size

Pad size shall be measured from edge of disturbance.

Pit

Shall mean any natural or man-made depression in the ground used for oil or gas exploration or production purposes. Pit does not include steel, fiberglass, concrete or other similar vessels, which do not release their contents to surrounding soils.

Platted subdivision lot

Any lot created pursuant to state law, which has received subdivision approval by the Board of County Commissioners since September 1, 1972.

Pollution

The contamination or other degradation of the physical, chemical or biological properties of water or air, including change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance into water or air as will or is likely to create a nuisance or render such water or air harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or native flora.

Producing (in production)

The development stage in which marketable oil and gas are extracted from a well; may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

Recompletion

The operator reenters a well to complete or deepen the well to a new formation from that in which a well has previously been completed.

Reserve Pit

Shall mean those pits used to store drilling fluids for use in drilling operations or to contain E&P waste generated during drilling operations.

Residential Area

Having an existing residence or platted subdivision lot located within a one-quarter mile radius of a facility site.

Right-of-way

A tract or strip of land, separate and distinct from the adjoining property, owned, occupied or intended to be occupied by an oil, gas and/or water pipeline.

Seismic Exploration/Operation

Shall mean all activities associated with acquisition of seismic data including but not limited to surveying, shothole drilling, recording, shothole plugging and reclamation.

Spacing

Acreage dedicated to each well producing from the same formation. Spacing regulations are established by the Colorado Oil & Gas Conservation Commission.

Stormwater Management Plan

Means the detailed analysis that describes how the proposed stormwater management system for a development has been planned, designed and will be constructed to meet applicable County requirements and Colorado Department of Health and Environment requirements.

Subsequent Well Operations

Shall mean those operations that will materially impact surface areas beyond the existing access road or well site for any well, including operations such as fracturing or recompletion of the well but shall not include routine service and maintenance operations including but not limited to the changing of pumps.

Transmission line

A pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

Well

Shall mean an oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

All other words used in this Section shall be given their usual, customary and accepted meaning in the oil and gas industry, or as defined in the Rules and Regulations of the Oil and Gas Conservation Commission of the State of Colorado or the BLM "Gold Book"

ATTACHMENT A

NOTICE TO ADJACENT AND AFFECTED PROPERTY OWNERS:

A Public Meeting/Hearing will be held on _____, 20__ at _____ am/pm in the (place) _____ to review the following application.	
Description of the proposed facility site location, including legal description and street address if applicable:	
Legal Description:	
Street Address (if applicable):	
Applicant Name:	
Business Address:	
Telephone Number:	
Fax Number:	
Email Address:	
Designated Agent:	
Business Address:	
Telephone Number:	
Fax Number:	
Email Address:	
Brief Description of the Facilities & Equipment and Proposed Activity:	
Submittal Date of Application to County:	
For additional information contact:	San Miguel County Planning Department P.O. Box 548, 333 W. Colorado Ave., 3rd Fl Telluride, CO 81435 Phone:970-728-3083 Fax:970-728-3098 www.planning@sanmiguelcounty.org

ATTACHMENT B

NOISE ABATEMENT pursuant to COGCC Regulation 800 Series:

802. Noise Abatement

a. Oil and gas operations, including gas facility operations, shall comply with the following maximum permissible noise levels for the predominant land use existing in the zone in which the operation occurs. Any operation involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation is subject to the maximum permissible noise levels for industrial zones. In the hours between 7:00 a.m. and the next 7:00 p.m. the noise levels permitted below may be increased ten (10) db(A) for a period not to exceed fifteen (15) minutes in any one (1) hour period.

ZONE	7:00 am to next 7:00 pm	7:00 pm to next 7:00 am	
Residential	55 db(A)	50	db(A)
Commercial	60 db(A)	55	db(A)
Light industrial	70 db(A)	65	db(A)
Industrial	80 db(A)	75 db(A)	

The following provide guidance for the measurement of sound levels from oil and gas operations:

(1) If there are no occupied building units impacted, sound levels shall be measured at a distance of twenty-five (25) feet or more from the property line radiating the noise. Sound levels at occupied building units shall be measured as near as practicable to the exterior edge of the occupied building unit closest to the area radiating the noise.

(2) Sound level meters shall be equipped with wind screens, and readings taken when the wind velocity at the time and place of measurement is not more than five (5) miles per hour.

(3) Sound levels shall be taken four (4) feet above ground level.

(4) Sound levels shall be determined by averaging measurements made over a fifteen (15) minute sample duration.

(5) In all sound level measurements, the existing ambient noise level from all other sources in the encompassing environment at the time and place of such sound level measurement shall be considered to determine the contribution to the sound level by the oil and gas operations.

a. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.

b. In high density areas all facilities within four hundred (400) feet of occupied buildings with engines or motors which are not electrically operated shall be equipped with quiet design mufflers or equivalent. All mufflers shall be properly installed and maintained in proper working order.

SECTION 5-27: WIRELESS SERVICES AND COMMUNICATIONS FACILITIES

5-2701 A. Purpose of Section

The purpose of this Wireless Services and Communications Facilities section is to ensure that residents, visitors, schools, public safety operations and businesses in unincorporated areas San Miguel County have reliable access to Personal Wireless Services while ensuring that this objective is achieved in a fashion that preserves the aesthetic character of the community and neighborhood and is accomplished according to the County's planning, zoning, and design standards.

The provisions of this section are intended to be in compliance with the provisions of the Federal Telecommunications Act of 1996, 47 USC §332(c)(7), and are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services and shall be implemented accordingly.

To accomplish the above stated objectives and to ensure that the placement, construction or modification of Wireless and Communication Facilities comply with all applicable Federal laws, and is consistent with the County's land use policies, the County adopts this single, comprehensive, wireless services and communications Section. Communication towers, antennas and facilities shall conform to the requirements of this section and all other applicable requirements of this Code.

No provision of this LUC Section shall apply to the siting of Distributed Antenna Systems (DAS) or wireless facilities within a building, stadium or similar structure, school or park and is intended primarily to provide wireless coverage within that building, stadium, or similar structure, school or park.

This Section establishes parameters for the siting, design, operation and maintenance of Wireless and Communication Facilities in the unincorporated areas of San Miguel County. By enacting this Section it is the County's intent to:

1. Ensure the County has sufficient wireless infrastructure to support public safety and emergency response communications throughout the county;
2. Ensure access to reliable Personal Wireless Services throughout all areas of the county including wireless broadband data services and in no event prohibit or have the effect of prohibiting the provision of Personal Wireless Services;

3. Minimize the number of towers by encouraging the joint use (collocation) of facilities and by maximizing the use of existing towers and structures
4. Encourage the location of Support Structures, to the extent possible, in areas where any potential adverse impacts on the community and its residents will be minimized;
5. Provide for the efficient modification and upgrading of existing Facilities to accommodate changing technologies and to cause the removal of obsolete Facilities ;
6. Facilitate the responsible deployment of Facilities to serve residential areas and to ensure that Facilities are sited and/or co-located in a manner that does not detract from the scenic quality or residential character of the area;
7. Minimize the potential adverse effects of Wireless & Communication Facilities through the implementation of design, landscaping and construction practices;
8. Allow competition in Wireless Services and Communication Facilities and to avoid unreasonably discriminating among providers of functionally equivalent services;
9. Ensure public health, safety, and welfare;
10. Provide guidelines and standards for the siting and design of Wireless Services and Communications Facilities;
11. Protect the county's environmental resources and to minimize adverse impacts on visual resources, including compliance with applicable scenic quality standards; and
12. Ensure that Telecommunication Facilities are compatible with adjacent and neighboring land uses and meet all applicable Land Use Code provisions.

This Section 5-27 of the Land Use Code supersedes all other provisions of the Land Use Code pertaining to the permitting, placement, construction and modification of Wireless and Communication Facilities except as specifically provided for in this section.

5-2701 B. General

Wireless Services and Communication Facilities may be allowed subject to either Administrative Review or approval of a Special Use Permit application in any Zone District, except Open Space (OS), Scenic Foreground Overlay (SFO) and Scenic View Plane (SVP), residentially developed portions of Affordable Housing PUD's or the High Country Area (HCA). A determination of whether a Facility may be permitted by an Administrative Review or will require consideration through a Special Permit Review process will depend on the type, design, location or height of the proposed Facility, the zoning of the property, the proximity to a Residential Area, and will be reviewed for compliance with the provisions

and standards set forth herein.

Telecommunications towers must be built to provide service coverage and/or capacity for one or more FCC licensed wireless carriers, e.g., Cingular, Verizon, Sprint, AT&T, Alltel, T-Mobile, or for a public entity, or to provide emergency service communication facilities. New towers will not be approved until it is demonstrated that no existing towers or structures (such as existing Wireless or Communication Towers, water towers, utility and/or light poles, rooftops of existing buildings and similar structures) can accommodate the wireless carrier's equipment and provide functionally equivalent coverage to a specified service area. The evidence should include the effort made to locate on an existing facility including coverage/interference analysis, capacity analysis, and technological feasibility, and a brief statement as to any other reasons for success in locating on an existing tower or structure or lack thereof.

In accordance with the 1996 Telecommunications Act the County is prohibited from considering the effects of radio frequency emissions in determining a suitable tower site location, provided, such tower complies with the regulations of the Federal Communications Commission regarding such concern.

In addition to complying with all applicable zone district standards wireless services and communication facilities shall comply with the standards in this section. Facilities and support Structures may be located on a parcel containing another principal use.

5-2702 Review Procedures

A. Uses Allowed Subject to Administrative Review

Unless otherwise specified herein, all Facilities and Support Structures permitted by Administrative Review and Approval are subject to the applicable standards in Section 5-27.

I. Facilities Located on Existing Structures

- a. Antennas and Accessory Equipment when located on an Existing Structure or site.
- b. Antennas and Accessory Equipment may exceed the maximum Building Height limitation within a zoning district provided the structure and antenna attached to the existing facilities do not exceed 45-feet in combined height.
- c. Minor Modifications are permitted in all zoning districts subject to Administrative Approval in accordance with the requirements of this Section.

- II. New Support Structures
 - a. New Towers less than sixty (60) feet in height shall be permitted in all zoning districts, except those listed in Section 5-2701 B. and those in Residential Areas, in accordance with the requirements of this Section.
- III. COW Facilities (“Carrier on Wheels” or “Cell on Wheels”)
 - a. COW placed for a period of not more than fourteen (14) days for temporary uses related to a duly sanctioned special event;
 - b. COW placed for a period of not more than one hundred twenty (120) days for temporary use related to Replacement or repair of an existing support structure or tower that has either been permitted by San Miguel County or is determined to be a pre-existing non-conforming structure;
 - c. COW placed for a period of not more than one hundred twenty (120) days at any location within unincorporated areas of the County after a Declaration of an emergency disaster by the governor or as authorized by the Board of County Commissioners.

B. Uses Allowed Subject to One-Step County Planning Commission Special Use Permit Review

One-step Planning Commission decisions are subject to Call-up by the Commissioner of the district where the proposed facility will be located, in addition to the Call-up procedure set forth in Section 1-20.

- I. Stealth Towers, less than 60 feet in height located in Residential Areas.
- II. A Stealth Tower less than 60 feet in height adjacent to a Residential Area

C. Uses Allowed Subject to Two-Step Special Use Permit Review

All new Towers and Facilities not listed under Administrative Review or One-step Review and all Towers over 60-feet in height but less than 199-feet in height.

D. Exemptions

Ordinary Maintenance of existing Facilities and Support Structures, as defined herein shall be exempt from obtaining a

Development Permit. In addition the following facilities are not subject to the provisions of this section of the LUC:

- I. Antennas used by residential households solely for broadcast radio and television reception;
- II. Satellite antennas including satellite dishes used solely for residential or household purposes;
- III. FCC licensed radio operators or receive-only facilities less than 45 feet in height.

5-2703 Preferred, Disfavored, Prohibited Facilities

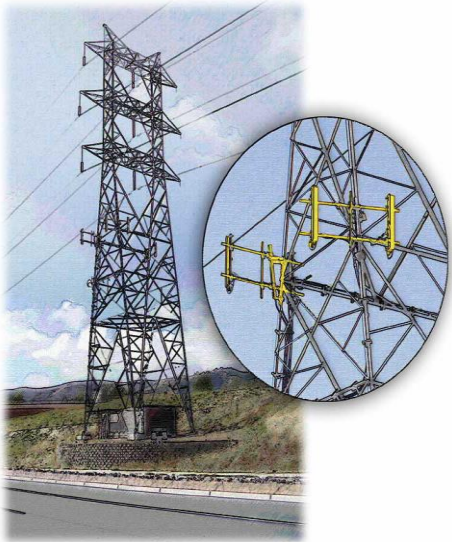
A. Preferred Facilities

Site location and development of Telecommunication Facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. If technically feasible, new facilities shall use the most preferred facility type in the order specified herein below. The order of preference for new facilities is as follows (the most preferred to the least preferred):

- I. Co-location on an existing tower.
- II. Antennas attached to existing structures such as towers, buildings, light poles, and utility poles that do not substantially increase the height of the existing structure.
- III. Location of new towers or facilities less than 100' feet in height in relatively remote areas at higher elevations far removed from Residential Areas that would not be highly visible from State Highways, neighboring developments and public uses areas.
- IV. Location of new towers or facilities less than 150 feet but more than 100 feet in height in relatively remote areas at higher elevations far removed from Residential Areas that would not be highly visible from State Highways, neighboring developments and public use areas.
- V. Location of new towers or facilities less than 199 feet but more than 150 feet in height in relatively remote areas at higher elevations far removed from Residential Areas that would not be highly visible from State Highways, neighboring developments and public use areas

- VI. New tower or facility less than 60 feet in height that is intended to service a Residential Area, where the tower or facility is located on an adjacent or nearby industrial and/or commercial zoned property or non-residential public facility. It is preferred that the tower or facility be a Stealth facility.
- VII. New tower or facility less than 60-feet in height that is deemed necessary to provide or improve wireless or broadband data services to serve a Residential Area, which must be located within that Residential Area to meet technical requirements. Towers and facilities located within a Residential Area shall be a Stealth Facility that does not detract from the visual quality or residential character of the neighborhood or an adjoining neighborhood.

Preferred Examples:





When a new tower is necessary Stealth Facilities are the preferred facility followed by a self-supporting Monopole, and then a Lattice tower. Guyed towers are considered a disfavored facility.

A lesser preferred or disfavored facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary because of service coverage requirements than the use of more preferred facilities.

B. Disfavored Facilities

Site location and development of Telecommunication Facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Disfavored facilities shall not be considered unless it is demonstrated that there is not a preferred facilities location available that will provide similar coverage. The following are considered disfavored locations:

- I. New towers on any site that is within a state or county designated scenic highway corridor or major highway corridor.
- II. New towers located on a site within a Scenic Vista, Scenic View Plane or along a ridgeline so it is exposed to view from highway travelers or to Residential Areas, along a public trail, in a park or recreation area, unless the facility blends in with the surrounding natural and human made environment.

- III. New towers on sites within one-half ½ mile of a Residential Area.
This does not include the installation of antennas and associated facilities on existing facilities.
- IV. New towers that are located in open fields, open meadows or low lying areas that are highly visible from Scenic highways, public use areas and/or Residential Areas.
- V. New towers that are located in environmentally sensitive areas such as Floodplains, Wetlands, and Gunnison-Sage grouse habitat.

Disfavored Examples:



Unacceptable Siting and Design

Above: “monopine” incompatible with surroundings - Below: towers in highly visible site



C. Prohibited Facilities

The following towers/facilities are prohibited:

- I. New towers or additions to towers that exceed 199' feet in height and/or that are located so that the Facility is required to be lighted to comply with Federal Aviation Administration requirements.
- II. Non-Stealth towers in Residential Areas.

5-2704 Application Requirements

A. Pre-application Conferences with Staff

Prior to the submittal of an application for either an Administrative Review or a Special Use Permit application for a telecommunications facility the applicant shall schedule the first of two pre-application conferences with Planning Department staff. The tower applicant and at least one person from the service provider or their appointed authorized qualified agent must attend the pre-application conferences. At the first conference the applicant will share with staff information on existing towers and the proposed service area. Staff will provide information regarding existing towers within the county, zone district information, Residential Area locations, and information on preferred and disfavored facilities and locations.

At the second conference the applicants will submit a written narrative explaining why the proposed site has been chosen, the type of Tower chosen, including an analysis of alternative locations that were considered and an explanation as to why they were not selected, why the proposed Telecommunication Facility is necessary, why the requested height was chosen, ability of the facility to accommodate other providers, and any other information requested at the first pre-application conference.

Based upon the written narrative information staff will review the Land Use Code requirements and submittal requirements. Staff will prepare a written Pre-application Conference Summary letter that will include a determination as to type of review (Administrative, One or Two step review), Public Notice requirements, and other applicable Land Use Code requirements in addition to Section 5-27 requirements.

In addition, for facilities located within one-half mile of a Residential Area, the applicant shall hold a neighborhood meeting prior to the submittal of an application. Staff will attend the meeting and utilize the comments of neighbors in the analysis presented to the County Planning Commission and/or the Board of County Commissioners. The

requirement of a neighborhood meeting may be waived by the Planning Director, in their discretion.

B. General Requirements

- I. The following must be addressed as part of any application:
 - a. Site plan, photos or drawings accurately representing existing and proposed conditions, specifying the location of antennas, support structures, transmission building, and other accessory structures, setbacks from property lines, all uses, access, parking, fences, signs, existing and proposed landscaping, and lighting, as well as all adjacent land uses within 500 feet for towers less than 100 feet high and 1000 feet for towers from 100-199 feet high. The Planning Director will assist in specifying recommended vantage points and the requested number of photo simulations.
 - b. Elevation drawings, or before and after simulations/drawings specifying the height and location of antennas, support structures, transmission building(s), and any accessory uses, fences, or signs, and proposed materials and colors.
 - c. Structural Integrity Report from a professional engineer licensed in the State of Colorado that documents tower height and design, total anticipated capacity of the structure, failure characteristics, and specific design/reconstruction plans to allow shared use.
 - d. Statement from the Federal Communications Commission (FCC), or applicable federal agency, that the application complies with the regulations of the FCC or applicable federal agency with regard to maximum radio frequency and electromagnetic frequency emissions, or a statement from the applicant that no such compliance is necessary and the reasons therefore.
 - e. The applicant shall erect a visual device which specifically identifies the height and mass of the proposed facilities and provide notice of the date and time of the simulation in local newspapers with a display advertisement and on local radio. The public notice shall take place a minimum of 10 days prior to the erection of the visual device. This requirement may be waived or modified by the Planning Director, in their discretion.
 - f. The device shall be erected prior to the scheduled meeting date as determined by the Planning Department.
 - f. Written Narrative. A copy of the previously submitted written narrative, along with any updates, including any

additional information requested at the pre-application conference, shall be submitted.

- g. Existing Structures. Evidence shall be submitted demonstrating that there is no existing structure that can be utilized within the targeted coverage area to meet the applicant's requirements.
- h. For facilities within one half mile of a Residential Area provide evidence of notification of property owners within one half mile, a map indicating tower site and residential area, and evidence of neighborhood meeting including sign-in sheet and a description of how the design addresses the residents' concerns. At the Planning Director's discretion the area of notification may be increased based upon potential visual impact or other extenuating circumstances.
- i. The location and type of any existing and/or proposed telephone and internet broadband facilities serving the proposed site.

II. The County may, in its discretion, hire a qualified third party to review the submitted application. It will be the responsibility of the applicant to pay, at a customary reasonable market rate, for third party reviews initiated by the County.

III. The Planning Director, Planning Commission or the Board of County Commissioners may reasonably require more materials or information to be supplied by an applicant.

IV. Should an applicant for a wireless services facility, including any co-applicant(s), not be an FCC licensed wireless service provider, the application shall include written documentation from such an FCC licensed wireless service provider that it is contractually obligated to provide personal wireless services using the applicant's proposed telecommunications facility should it receive county land use approval.

C. Communication Plan

In order to protect citizens against an unreasonable proliferation of wireless communication facilities in the County and in order to protect and preserve the character and aesthetics of County scenic view planes each applicant shall provide a plan of its existing and intended facilities to the County prior to, or in conjunction with, any application for the installation of a Telecommunication Facility. The plan shall cover the entire County extending five miles beyond the County border. The plan shall include the

following items. These shall be in general terms and are not meant to require submittal of confidential or proprietary information.

- I. All of the applicant's existing telecommunication facilities by size, type and coverage area.
- II. All presently anticipated future service areas, anticipated dates of development, and types and heights of facilities desired for each of the Service areas.
- III. The applicant's proposal to mitigate and/or reduce existing and proposed towers to avoid the proliferation of such facilities.
- IV. The applicant's proposal to mitigate and/or reduce the negative visual impacts created by new towers, including any proposals to conceal disguise such facilities designed to be architecturally and/or environmentally compatible with their surroundings.
- V. The applicant's proposal to co-locate antennas on their own facilities, on facilities from other applicants or tower companies, or on other structures that provide the verticality required for the antennas.

D. Scenic Quality Mitigation Plan

- I. A plan for mitigation of visual impacts or other appropriate aesthetic impacts of the proposed tower, and associated telecommunication support facilities, shall be submitted.
- II. Visual simulations and renderings may be required by the Planning Department as a part of the submittal materials.
- III. Colors and Materials. Visual mitigation techniques such as coloring, screening and landscaping shall be used. Towers, attached antennas and accessory structures, such as equipment buildings, including the roofs, must be painted or coated in a color that blends with the surrounding environment.
- IV. Fencing. New towers and facilities may be required or allowed to be fenced to prevent trespass.
- V. Lighting. Lighting is prohibited on towers unless required by the Federal Aviation Administration or other applicable state or federal requirements. Motion detector security lighting may be approved if the lights are fully shielded and down lighted. Any outdoor lighting plan requires County approval.
- VI. Landscaping. Perimeter landscaping may be required as a condition of approval of the facility, depending on the location. Existing vegetation shall be preserved to the maximum extent possible.
- VII. Weed Control. A weed control plan shall be submitted that addresses control of noxious weeds on all areas disturbed during construction. The applicant may be required to provide weed control at the facility for a period of three years from the

installation of the telecommunications facility and the plan shall be reviewed annually by the County Weed Manager who may modify the plan as necessary.

- VIII. Signs. No advertising is permitted anywhere upon or attached to the facility. Signage is limited to small non-illuminated warning and identification signs.
- IX. Storage. Long-term parking, vehicle storage or other outdoor storage is prohibited.
- X. The level of mitigation required will depend on the location of the proposed facility in relation to topographic features, important visual features, major public thoroughfares, public recreational areas, residential neighborhoods and other sensitive visual area. Siting of facilities and equipment shall follow the following order of preference: first, on existing structures; second, in locations where existing topography, vegetation, or structures provide adequate visual screening. The Planning Commission or Board of County Commissioners may require any one of the following conditions for approval of an antenna or tower in order to further the goals of this Code and the County Master Plan:
 - i. Moving the location of the tower or antenna to a more appropriate site.
 - ii. Using different technology that will lessen the impact of the tower or antenna.
 - iii. Requiring an appropriate alternative tower structure, including stealth design which appear or function as trees, flagpoles, windmills, etc.
 - iv. Other actions designed to disguise or otherwise lessen the impact of the tower.

E. Antenna Standards

- I. Development Permit approval shall be required for replacement of an antenna on an already approved or preexisting tower/structure provided the height of the telecommunication tower/structure is not increased.
- II. Antennas mounted to an existing utility structure (not including a communication tower), a multi-family building, commercial building, mixed-use building or other non-residential structure shall meet the following design standards:
 - a. The design of antennas and associated telecommunication support facilities shall use materials, colors, textures and screening that create compatibility with the surrounding built and natural environment. A plan for mitigation of visual impacts or other appropriate aesthetic impacts of the proposed

antenna shall be submitted with any required development review application.

- b. The antenna shall not exceed the surface area of the structure on which it is located by more than ten (10) square feet.

F. Area and Bulk Requirements

I. Minimum Lot Size.

The required lot size shall be determined as a condition of permit approval and shall be of sufficient size to meet the criteria stated in this section.

II. Minimum Setbacks.

The setback of the tower from all property lines at a minimum shall be no less than the height of the tower so that in case of collapse or failure of the tower it would be contained on the property. The setbacks may be reduced if a Colorado registered professional engineer certifies that in the event of failure the tower would be contained on site. Guy wires and accessory structures must meet the setbacks of the underlying zone district.

III. Maximum Height.

Maximum height shall be determined as a condition of approval except that no tower with antennas shall exceed 199 feet.

5-2705 Review Time Frames

- I. Within thirty (30) days of the receipt of an application the County shall either:
 - (1) deem the application complete; or
 - (2) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements.

If the County informs the Applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information.

- II. The review time frames in Section 5-2705 III do not start until the County has deemed the application complete.
- III. The County shall issue a written decision granting or denying a request for Collocation of Antennas and/or Accessory Equipment

on an Existing Structure or site within ninety (90) days of the submission of the initial application, and within one hundred fifty (150) days for requests to erect New Support Structures unless:

1. The County notified the Applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the ninety (90) day or one hundred fifty (150) day total review time is suspended until the Applicant provides the requested information; or,
2. Extension of time is agreed to by the Applicant.

5-2706 Permits/Term/Transfer of Ownership

- I. Development Permit. Development Permit approval is required prior to constructing a tower or facility regardless of tower height or zone district.
- II. Building Permit. A Building Permit is required for the construction of any accessory structures as required by the Building Department. Certification by a Colorado Registered Engineer is required to be submitted to the Building Department at completion of the tower structure.
- III. Term of Special Use Permit. The Special Use Permit shall have a time limit of no more than five years from the date of issuance. Prior to the end of the five-year period, the applicant and/or structure owner shall be responsible for submitting an application for renewal. The applicant shall demonstrate that changes in technology have not eliminated the need for the facility as approved. Renewal of a Special Use Permit shall be based on compliance with the conditions of approval. The Tower and Facility shall be maintained and kept in good repair.
- IV. Sale or Transfer of Ownership of an Existing Tower and Related Facilities. Prior to transfer of ownership of an existing tower and related facilities the applicant(s) is required to submit an application to the County for transfer of the original Special Use Permit and provide a statement from the new owner/operator that they agree to abide by all conditions of the issued Special Use Permit.
- V. The approved use whether by Administrative or Special Use Permit shall commence within three (3) years of the date of approval. If the owner has not obtained a Development Permit and commenced use of the approved Facility within this three (3) year time period the approval shall be subject to review by the entity that approved the

application.

5-2707 Abandonment/Discontinued/Obsolete Towers and Removal

If at any time the approved use of the facility is discontinued for 90 days, the County Planning Director or Building Official may declare the facility abandoned. The facility's owner/operator will receive written notice from the Planning Director or Building Official and instructed to either reactivate the facility's use within 90 days, or dismantle and remove the facility. If reactivation or dismantling does not occur, the County will remove or will contract to have removed the facility and assess the owner/operator the costs. The applicant may seek an extension of the use provided they can show good cause for granting an extension.

The applicant shall reclaim the disturbed area as approved by the County Environmental Health Department.

5-2708 Bond Requirement

- I. A bond, in an amount determined acceptable by the County, may be required, as a condition of any reviewable Use permit or renewal of a permit, as deemed necessary by the County, sufficient to cover the cost of removal of the tower, site remediation and/or satisfaction of the other conditions and requirements.
- II. When a bond is required the proposed Wireless Services and Communication Facilities development shall be bonded through an escrow account or uncancellable surety secured unto the County and acceptable to the County Attorney in an amount of the estimated remediation cost as approved by the County. Bonds shall be forfeited if the remediation work is not completed within 90 days of removal of the facilities or within a reasonable time frame determined by the County.

5-2709 Federal Certifications

- I. Federal Aviation Administration (FAA)

The applicant is required to provide the County with FAA certification that the proposed tower and facilities has received a "Determination of No Hazard to Air Navigation" and that the tower/facilities do not require lighting where such is required by the FAA.

II. Federal Communications Commission (FCC)

The facility owner and/or service provider(s) shall provide the County with FCC, or applicable federal agency, certification annually that the maximum radio frequency and electromagnetic frequency emissions meets federal standards, if applicable.

5-2710 Definitions

For the purposes of this Section the following definitions apply:

Abandonment

Occurs when a telecommunications facility ceases to perform its intended function for a period of more than 90 days, except in cases of declared emergency.

Accessory Equipment

Any equipment serving or being used in conjunction with a Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

Administrative Approval

Land use approval that the County Planning Director is authorized to grant after Administrative Review.

Administrative Review

Evaluation of an application by the County Planning Director or designee. This process is not subject to a public hearing. The procedures for Administrative Review are established in Article 3, Section 3-402 of the Land Use Code.

Antenna

Any equipment or device used to receive or transmit electromagnetic waves for the provision of Personal Wireless Services including, but not limited to, cellular, paging, personal communication services (PCS), and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designated for residential or household purposes.

Collocation

The act of siting Facilities on an Existing Structure without the need to construct a new Support Structure and without an increase in the size of an Existing Structure.

“Carrier on Wheels” or “Cell on Wheels” (“COW”)

A portable self-contained Facility that can be moved to a location and set up to provide Personal Wireless Services. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna Support Structure.

Existing Structure

Previously erected Support Structure or any other structure, including but not limited to, buildings, water tanks, transmission towers, poles, signs, or similar structures to which Facilities can be attached.

Facility(ies)

Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, Personal Wireless Services, cellular telephone service, personal communications service (PCS), and paging service. A Facility can consist of one or more Antennas and Accessory Equipment or one base station.

Guyed Tower

A support structure supported by multiple cables securely anchored to the ground. A type of wireless transmission tower that is supported by thin guy wires.

Height

The vertical distance from the existing grade at the base of the tower to the highest point of the tower including antennas.

Lattice tower

A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

Major Modifications

Improvements to Existing Structures that result in an increase in the overall height of the Tower and antennae or increases the size of the ground lease area. Collocation of new transmission equipment to an existing Support Structure without Replacement of the structure that does not increase the height of the Tower or Support Structure shall not constitute a Major Modification.

Minor Modifications

Improvements to Existing Structures that result in some material change to the Facility or Support Structures but is of a level, quality or intensity that does not increase the overall height of the Tower or Support Structure, does not increase the size of the ground lease area or is consistent with the terms and conditions of the Administrative or Special Use Permit approval. Minor Modifications include collocation of new transmission equipment and the Replacement of the structure with a new structure of equal or lesser height.

Monopole

A single freestanding pole-type structure supporting one or more Antennas. For purposes of this Section, a Monopole is not a Vertical Facility.

Ordinary Maintenance

Activities to ensure that Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity (e.g., the strengthening of a Support Structure's foundation or of the Support Structure itself). Ordinary Maintenance includes (i) replacing existing Antennas with Antennas of a similar size and color, (ii) replacing Accessory Equipment within an existing Facility, and (iii) relocating the Antennas of approved Facilities to different height levels on an existing Monopole or Vertical Facility upon which they are currently located as long as they do not increase the overall height of the facility. Ordinary Maintenance does not include Minor and Major Modifications.

Personal Wireless Services

Commercial wireless services, unlicensed wireless services and common carrier wireless exchange access services.

Provider

A wireless service provider (WSP) is a company that offers transmission services to users of wireless devices (handheld computers and telephones) through radio frequency (RF) signals rather than through end-to-end wire communication. Generally, a WSP offers either cellular telephone service, personal communication service (PCS) service, or both. The term also seems applicable to satellite television and Internet access providers.

Replacement

Constructing a new Support Structure of the same type and proportions and of equal height or lesser height to a pre-existing Support Structure in order to support a Facility or to accommodate Collocation and removing the pre-existing Support Structure.

Replacement may include replacing a pre-existing Support Structure with a preferred tower type e.g. replacing a guyed tower with a self-supporting monopole of the same or lesser height.

Residential Area

A residential area is a district or area where people live. It is a land use in which private residences predominates, as opposed to industrial and/or commercial areas or agricultural uses. It is typically an area that has been subdivided or divided into smaller lots and higher densities than agricultural lands or 35-acre parcels, and such lots are intended primarily to be developed with Single-family residences. A residential area may include parcels 35-acres or larger which may have an HOA and were subdivided with the intention of being residential use lots.

Scenic Vista

Areas of alpine, sub-alpine and scenic hillsides of historic and natural landscapes including but not limited to the San Miguel watershed, hillsides around the Town of Telluride, the Town of Mountain Village and the Town of Ophir, views of the San Juan range, and San Sophia range on the east end of the County. Areas of alpine, sub-alpine and scenic hillsides and farm land located on Wright's Mesa looking both north and

south, which includes Lone Cone Mountain and the Uncompahgre Plateau. Areas of piñon and juniper, sand canyons, and high desert areas of the west end of San Miguel County.

Stealth Facility(ies)

Any Facility that is integrated as an architectural feature of an Existing Structure or changes a Support Structure design so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent. The stealth tower/facility must be similar in appearance and size and scale as the object it is replicating. Stealth Facilities in Residential Areas must not exceed 60 feet and shall comply with all requirements of this Section, as well as:

- a. antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent; and,
- b. Existing Structures utilized to support the Antennas may be allowed and may include, but are not limited to, flagpoles, bell towers, silos, water towers, crosses, monuments, smoke stacks, parapets, trees and steeples.

Stealth Facilities shall be designed to accommodate the collocation of other Antennas whenever technically feasible.

Support Structure(s)

A structure designed to support Facilities including, but not limited to, Monopoles, Vertical Facilities, utility poles and other freestanding self-supporting structures.

Telecommunication

The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

Telecommunications facility:

Any combination of one or more antennas, towers and/or structures with equipment used for the transmission of wireless communication.

Tower

A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures, or a structure affixed to or mounted on an existing or newly constructed building or other permanent structure, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Vertical Facility(ies)

A lattice-type structure, guyed or freestanding facility built for the sole or primary purpose of supporting FCC-licensed Antennas and their associated facilities.

Wireless Services

See Personal Wireless Services

SECTION 5-28: FLOODPLAIN REGULATIONS

5-2801 General Provisions

5-2801 A. Statutory Authorization

This Section is adopted pursuant to, inter alia, Title 29, Article 20, Section 101, et seq.; Title 30, Article 28, Section 101, et seq.; and Title 24, Article 65.1, Section 101, et seq., Colorado Revised Statutes, 1973, as amended.

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governments to adopt regulations designed to minimize flood losses. Therefore, the Board of County Commissioners of San Miguel County, Colorado, does hereby adopt the following management regulations:

5-2801 B. Findings of Fact

- (1) The flood hazard areas of San Miguel County are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

5-2801 C. Purpose

It is the purpose of this Section to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditures of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to critical facilities, infrastructure and other public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. To ensure that potential buyers are notified that property is in an area of special flood hazard;

7. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazards so as to minimize future flood blight areas;
8. Prohibit the placement of fill, materials, and structures, which would significantly obstruct flood flows or cause potentially damaging debris to be carried downstream;
9. Encourage open space activities such as agriculture, recreation, and mineral extraction in flood hazard areas and to insure that any combination of these activities is conducted in a mutually compatible manner; and
10. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.
11. Compliance with this Section allows the County to remain in good standing in the National Flood Insurance Program (NFIP) which allows landowners and residents to continue to be eligible to obtain flood insurance.
12. Compliance with this Section also allows the County to be eligible for certain grant funding through the Colorado Water Conservation Board (CWCB), and for Hazard Mitigation funding through the Federal Emergency Management Agency (FEMA).

These regulations seek maximum protection of persons and property by avoiding development activity whenever possible, minimizing unavoidable development activity and mitigating the impacts of development on lands adjacent to rivers and streams within flood hazard areas. Developers and landowners should seek to use existing bridges to the extent possible to reduce impacts of multiple bridges crossing rivers and streams.

5-2801 D. Methods of Reducing Flood Losses

In order to accomplish its purposes, this Section uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

5-2801 E. Construction

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this resolution and another regulation, master plan, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more restrictive standards or requirements shall prevail.

5-2801 F. Application

- (1) This Section shall apply to all Special Flood Hazard areas within the unincorporated areas of San Miguel County and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F).
- (2) The areas of Special Flood Hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for San Miguel County, Colorado, and Incorporated Areas," dated September 30, 1992, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, is hereby adopted by reference and declared to be a part of this Section.

These maps, together with all explanatory material, are hereby adopted by reference and declared to be a part of this resolution. True and official copies of these maps shall be filed and maintained for public inspection in the offices of the County Planning Department, 333 W. Colorado Ave., Telluride CO 81435.

- (3) No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Section and other applicable regulations. Nothing herein shall prevent San Miguel County from taking such lawful action as is necessary to prevent or remedy any violation.

5-2802 Administration

5-2802 A. Designation of the Floodplain Administrator

The Planning Director is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this Section and other appropriate sections of the National Floodplain Program Regulations pertaining to floodplain management.

Duties of the Floodplain Administrator shall include but not be limited to:

- (1) Review all development permits to determine that the permit requirements of this Section have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5-2805 A.1 are met.
- (4) Where interpretation is needed as to the exact location of the boundaries of floodplains, the Floodplain Administrator shall make the necessary interpretation.

The base flood elevation shall be the governing factor in determining the actual boundaries.

5-2802 B. Permits Required

- (1) Any person desiring to engage in development within the Floodway, Flood Fringe or Flood Prone Districts must obtain a Floodplain Development Permit by Administrative Review or Special Use in accordance with the procedures in these regulations.
- (2) A Development Permit to demonstrate compliance with the terms of the Floodplain Administrative Review or Special Use approval shall be obtained before construction or development begins within any area of special flood hazard established in Section 5-2801 F. Application for a Development Permit shall be made on forms furnished by the Planning Department and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.
- (3) A Building Permit may be necessary for the construction of any structure(s) as required by the Building Department.

5-2802 C. Enforcement and Remedies

Refer to Land Use Code Section 1-16 Enforcement and Remedies.

5-2802 D. Severability

Refer to Land Use Code Section 1-7 Severability.

5-2802 E. Disclaimer of Liability

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of San Miguel County, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder

5-2802 F. Appeals

- (1) Any person or persons aggrieved by the decision of the Floodplain Administrator/Planning Director may appeal such decision to the Board of County Commissioners pursuant to Land Use Code Section 1-1903 Appeal of Planning Director's Administrative Decisions.
- (2) Any person or persons aggrieved by the decision of the Board of County Commissioners may appeal such decision in the courts of competent jurisdiction.

5-2803 Application Submittal

5-2803 A. Application Procedure

- (1) Application for a Floodplain Development Permit shall be made on a form, Exhibit 1, to this regulation.
- (2) Receipt of Application – An application shall not be accepted unless it is complete. If the application is considered incomplete by the Floodplain Administrator, the Floodplain Administrator shall specify what additional information is required.
- (3) The Floodplain Administrator shall review the application for conformance with Sections 5-2804 and 5-2805 of this regulation and shall within (30) days of receiving a complete application report the results of such review in writing to the applicant, and, if the development proposal involves a use by special review, to the Board of County Commissioners.
- (4) When base flood elevation data has not been provided in accordance with Section 5-2803 C. the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, as criteria for requiring that new construction, substantial improvements or other development in Zone A.

5-2803 B. Review Procedures

A. Allowed Uses by Administrative Review

If the proposal involves an allowed use, the Floodplain Administrator shall within thirty (30) days of certifying the application complete:

1. Grant a Floodplain Development Permit if the proposed development complies with the provisions of Section 5-2805 of this regulation, together with any conditions deemed appropriate for the particular proposal, or

- 2 Deny a Floodplain Development Permit if the proposed development does not comply with the provisions of Section 5-2805 of this regulation, together with written reasons for the denial.
- B. Uses Subject to One-step Board of County Commissioner Special Use Permit Review. All uses that are not listed as Allowed Uses and or subject to two-step review.
 - C. Uses Subject to two-step Planning Commission and Board of County Commissioner Review. The second-step of review shall be conducted as a Public Hearing:
 - a. New bridges crossing the San Miguel River
 - b. New bridges crossing the Dolores River
 - c. New bridges crossing major tributaries of the San Miguel River: South Fork of the San Miguel River, Leopard Creek, Fall Creek, Big Bear Creek, Deep Creek, Howard Fork, and Lake Fork.

5-2803 C. Submission Requirements

Applicants for a Floodplain Development Permit shall submit the following information. Additional information may be required upon receipt and review of the application.

- A. All of the information required on the application form which is incorporated into and made a part of this Section (See Exhibit 1).
- B. The information and data in items 1. through 8. below shall be prepared and certified by a professional engineer, registered in the State of Colorado.
 1. A map showing the existing and proposed stream and channel; the boundaries of the Flood Prone District or the Designated Floodplain along with the boundaries of the Floodway and Flood Fringe Districts, if such have been delineated; the area to be occupied by the proposed development; and all available flood elevation studies, water surface elevations and base flood elevations.
 2. Drawings showing the existing and proposed profile of the bottom of the channel at the thalweg and the water surface profiles described in item a. above.
 3. A map showing existing and proposed elevations or contours of the ground, pertinent structures, fill or storage elevations, size, location and spatial arrangement of all proposed and existing structures on the site; location and elevation of streets, water supply systems, sanitary facilities, and soil types. Such information shall include the elevation (in relation to mean sea level) of the lowest floor (including basement) of any structures and, where the lowest floor is below grade on one or more sides, the elevation of the floor immediately above.

4. Specifications for building construction and materials, filling, dredging, grading, channel changes, storage of materials, water supply systems, and sanitary facilities.
5. Descriptions of any construction activity that would affect the hydraulic capacity of the floodway.
6. Where Floodproofing is utilized for a particular structure in accordance with these regulations, certification that the Floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. Elevation in relation to mean sea level to which any structure which has been floodproofed;
7. For any application involving a use by special review in the Flood Prone District or which disputes the severity of hazardous conditions within the area, a floodplain study shall be completed and attached to the application. The purpose of such study is to more precisely determine the flood hazard at the particular site and the impact of the proposal on other areas both within and outside the floodplain boundary. All floodplain studies shall be conducted by a registered professional engineer experienced in floodplain studies and shall, at a minimum, determine the engineered base flood, its depth and elevation for the entire area of the site, and for 200 yards above and below the site. The study shall include, at a minimum, one cross section across the entire valley.
8. The applicant shall submit evidence satisfactory to the Floodplain Administrator that the applicant has notified upstream, downstream, or adjacent communities adversely affected by any development, fill encroachment, or alteration or relocation of a watercourse.

C. Waiver of Submission Requirements

1. The Floodplain Administrator and/or the Board of County Commissioners may waive any part but not all of the submission requirements and may not waive any of the performance standards, imposed by this regulation upon petition of the applicant that:
 - (i) A portion of the submission requirements is inapplicable to the development for which the permit is sought, and/or
 - (ii) Full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area.
2. Such a waiver may be granted upon a written determination that the information to be submitted is sufficient for the Floodplain Administrator or the Board of County Commissioners to arrive at a permit decision in full compliance with the law and these regulations and that the proposed development will have an insubstantial impact on the surrounding area.

D. Conditions and Guarantees

- (i) The Board of County Commissioners or the Floodplain Administrator may attach such conditions to the granting of a Floodplain Development Permit as they deem necessary in furthering the purposes of this regulation. Such conditions may include, but not be limited to, specifications for modification of waste disposal and water supply facilities, landscaping, period of operation, operational controls, sureties, deed restrictions, and adequate Floodproofing.
- (ii) Before any permit is issued, the Board of County Commissioners may, at its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Board of County Commissioners and payable to San Miguel County.

The purpose of said financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit or applicable regulations adopted by San Miguel County.

5-2803 D. Factors to be Considered

Approval or denial of a Floodplain Development Permit by the Floodplain Administrator or the Board of County Commissioners shall be based on all the provision of this Section and the following relevant factors:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (e) The availability of alternative locations for the proposed development that is not subject to flooding or erosion damage;
- (f) The compatibility of the proposed use with the existing and anticipated development;
- (g) The relationship of the proposed development to the comprehensive plan and any applicable floodplain management program;
- (h) The safety of access to the property in times of flood for ordinary and emergency vehicles;

- (i) The expected heights, velocity, duration, rate of rise, and sediment transport of floodwaters and effects of wave action, if applicable, expected at the site;
- (j) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges;
- (k) The consistency of the proposed use to the comprehensive plan for that area; and
- (l) Any other relevant evidence submitted by the Board of County Commissioners, the Floodplain Administrator, the Colorado Water Conservation Board, the applicant requesting a Floodplain Development Permit, and appellant or other party at interest.

5-2804 Provisions for Flood Hazard Reduction

5-2804 A. General Standards

In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be
 - i. designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyance;
 - ii. constructed by methods and practices that minimize flood damage;
 - iii. constructed with materials resistant to flood damage;
 - iv. constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
2. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
3. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

4. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
5. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5-2804 B. Specific Standards

In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in Section 5-2801 F.2 the following provisions are required:

1. Residential Construction

All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. Nonresidential Construction

With the exception of Critical Facilities, new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood elevation or together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator.

3. Enclosures - Crawl Spaces

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- b. The bottom of all openings shall be no higher than one foot above grade;
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured Homes

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:

- a. outside of a manufactured home park or subdivision,
- b. in a new manufactured home park or subdivision,
- c. in an expansion of an existing manufactured home park or subdivision, or
- d. in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

- a. The lowest floor of the manufactured home is one foot above the base flood elevations, or
- b. The manufactured home chassis is supported by reinforced piers or other foundations elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

6. Recreational Vehicles

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days,

- b. Be fully licensed and ready for highway use, or
- c. Meet the permit requirements of Section 5-2803 C, and the elevation and anchoring requirements for “manufactured homes” in paragraph 4. of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

5-2804 C. Standards for Shallow Flooding (AO/AH Zones)

Located within the Special Flood Hazard Area established in Section 5-2801 F. 2., are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. Residential Construction

All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community’s FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. Nonresidential Construction

With the exception of Critical Facilities, outlined in Section 5-2806, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community’s FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities be designed so that the structure is watertight to at least one foot above the base flood level with wall substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 5-280 are satisfied.

5-2804 D. Alteration of a Watercourse

For all proposed developments that alter a watercourse within a Special Flood Hazard

Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability would be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules and regulations.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section 2805.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

5-2804 E. Properties Removed from the Floodplain by Fill

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

1. Residential Construction
The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.
2. Nonresidential Construction
The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant

utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

5-2804 F. Standards for Subdivision Proposals

- I. All subdivision proposals including the placement of manufactured home parks and subdivisions shall:
 - a. be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage;
 - b. meet Floodplain Development Permit requirements of Section 5-28;
 - c. have adequate drainage provided to reduce exposure to flood hazards; and
 - d. have public utilities and facilities such as sewer, gas electrical and water systems located and constructed to minimize or eliminate flood damage.
- II. Base flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 5-28.

5-2804 G. Variance Procedures

The Board of County Commissioners shall hear and render judgment on requests for variances from the requirements of this ordinance.

- I. The Board shall consider all technical elevations, all relevant factors, and standards specified in other sections of this ordinance.
- II. Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause.
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or regulations.
- III. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing

items (1-7) in Section 5-2803 C. and D. have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases.

IV. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

V. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

VI. Prerequisites for granting variances:

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- b. Variances shall only be issued upon:
 - i. Showing a good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5-2805 Standards for Development within the Floodplain

No person shall engage in development in any Floodway, Flood Fringe or Flood Prone District without a Floodplain Permit.

5-2805 A. Floodway District

Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses

performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.

2. If Section 5-2805 A.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5-2804 above.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

5-2805 B Allowed Uses

Uses allowed in the Floodway, Flood Fringe and Flood Prone Districts:

- a) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- (b) Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic ground, boat launching ramps, swimming areas, parks, wildlife and nature preserves, target ranges, shooting preserves, trap and skeet ranges, hunting and fishing areas, fish hatcheries, hiking and horseback riding trails, except that structures accessory to such uses shall not be located in the Floodway or Flood Prone Districts.
- (c) Open area residential uses, such as lawns, gardens, parking areas and play areas.

5-2805 C. Uses by Special Review

All uses not listed under Allowed Uses or Prohibited Uses.

5-2805 D. Prohibited Uses

No development, encroachment, use or alteration in, on or over any part of the regulatory floodway shall be permitted which alone or cumulatively with other such uses would cause or result in:

1. Human occupation of permanent or temporary structures, including but not limited to manufactured homes;
2. Development or use of overnight campgrounds;

3. Storing or processing of materials that are buoyant, flammable, explosive or have potential for injuring human, animal or plant life;
4. Development or operation of solid waste disposal sites and central water or sewage treatment facilities;
5. Potential for significant solid debris or waste being carried downstream;
6. An encroachment that would have an adverse effect on the efficiency of the floodway, impair its ability to carry and discharge a 100-year flood, change the direction of flow or increase 100-year flood heights;
7. An increase in the water surface elevation of the 100-year flood; and/or,
8. Expansion of any existing nonconforming use.

5-2806 Standards for Critical Facilities

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. Classification of Critical Facilities

It is the responsibility of San Miguel County to identify and confirm that specific structures in the County meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Material; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
 - i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers);
 - ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctor offices, and non-urgent care medical structures that do not provide these functions);
 - iii. Designated emergency shelters;
 - iv. Communications facilities (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other

- emergency warning systems, but excluding towers, poles, lines cables, and conduits);
- v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- vi. Air transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWPT), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of San Miguel County that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Section, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to San Miguel County on an as-needed basis upon request.

- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- iii. Refineries;
- iv. Hazardous waste storage and disposal sites; and
- v. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the

owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pound or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this Section, but exclude later amendments to or editions of the regulations.

Specific exemptions to this category include:

- i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Section.

- c. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- i. Elder care (nursing homes);

- ii. Congregate care serving 12 or more individuals (day care and assisted living);
 - iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);
- d. Facilities vital to restoring normal services including government operations.

These facilities consist of:

- i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to San Miguel County that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Section, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to San Miguel County on an as-needed basis upon request.

2. Identification of Critical Facilities

It is the responsibility of San Miguel County, having land use authority, to identify and confirm that specific structures in the community meet the criteria outline in Section 5-2806 1. and are deemed to be Critical Facilities. All structures that clearly meet the intent of Section 6 shall be deemed Critical Facilities by the County. For those structures for which it is unclear or otherwise ambiguous if the criteria are met, the County shall have the sole discretion to determine if the structure is a Critical Facility. The County may regulate to higher standards or include additional facilities within the definition of Critical Facilities. Critical Facilities that are also designated as historic structures (determinations by the State Historic Preservation Office) are exempt from these requirements. Pursuant to section 24-65.1-202(2)(a)(I)(A), C.R.S. (2010), open space activities such as agriculture, horticulture, floriculture, recreation, and mineral extraction, including oil and gas activities, shall be encouraged in

the floodplain, and are exempt as Critical Facilities unless provisions within Section 6(I)(2) apply.

Required identification of Critical Facilities shall be limited to owner-occupied structures. San Miguel County may, at its sole discretion, include leased facilities in its identification of Critical Facilities.

3. 500-year Flood Events

San Miguel County acknowledges that flooding does occur above and beyond 100-year (1% annual chance) events. Applicants are encouraged to place development of Critical Facilities outside the 500-year floodplain, when possible.

4. Protection for Critical Facilities

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. Applicants shall consult with the County to determine the value of the Critical Facility when a Substantial change is being considered. This Section shall be applied to a Use Change if the new use meets the provisions within Section 5-2806 1. This Section shall only be applied to new Additions, and not the Critical Facility to the extent the Critical Facility existed prior to the amendment of these standards.

For the purposes of this Section, protection shall include one of the following:

- a. Location outside the Special Flood Hazard Area; or
- b. Elevation or floodproofing of the structure to at least two feet above the Base Flood Elevation. For Critical Facilities located within the 100-Year Floodplain, the structure shall be protected according to Section 5-2803 C. Section 4 with the exception of a freeboard of two feet substituted for the standard one-foot freeboard.

Unimproved lands associated with a Critical Facility that lie within a regulatory floodplain shall not be subject to this requirement until future development takes place on those lands. If an undeveloped portion of a facility's property lies within a regulatory floodplain, then that facility shall not be classified as a Critical Facility.

5. Ingress and Egress for New Critical Facilities

New Critical Facilities shall, when practicable as determined by San Miguel County, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

Applicants are encouraged to place development of Critical Facilities outside the 500-year floodplain if possible.

Section 5-2807. DEFINITIONS

Accessory Use or Structure

A subordinate use or structure customarily incidental to the principal use or structure and which is located on the same lot with the principal use or building.

Addition

Any activity that expands the enclosed footprint or increases the horizontal square footage of an existing structure.

Administrator

The local administrative official responsible for administering and implementing this regulation as set forth in Section 5-2802 1.

Appeal

The request for a review of the Board of County Commissioners' interpretation of any provisions of this Section or a request for a variance.

Applicant

Any person applying for a Floodplain Development Permit for development in an area affected by flooding.

Area of shallow flooding

A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

Area of special flood hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood

A flood having a one percent chance of being equaled or exceeded in any year. The term is used interchangeable with the intermediate regional flood, one hundred year flood, and the one percent flood.

Base Flood Elevation (BFE)

The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement

Any area of a building having its floor sub-grade (below ground level on all sides).

Board

“Board” means the Board of County Commissioners of San Miguel County.

Building Inspector

The person designated by the Board of Commissioners as the person responsible for enforcing the building code and zoning regulations, and the issuance of permits in regard to these codes.

Channel

The physical confine of stream or waterway consisting of a bed and stream banks existing in a variety of geometries.

Channelization

The artificial creation, enlargement or realignment of a stream channel.

Conditional Letter of Map Revision (CLOMR)

FEMA’s comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical Facility or Critical Facilities

A structure or related infrastructure, but not the land on which it is situated, as specified in Section 6, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Debris Fan Floodplain

A floodplain located on a debris fan. Debris fans are triangular-shaped landforms that form a deposition of water-transported rock fragments, soil, and vegetation debris at the confluence of tributary streams with a larger truck stream valley.

Designated Floodplain

The area identified, pursuant to Section 5-2801 F. 2. of this regulation, as a “designated” floodplain by official action of the Board of County Commissioners with the prior concurrence of the Colorado Water Conservation Board.

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

Dry Wash Channel

Natural passageway or depressions of perceptible extent containing intermittent or low bas flow.

Dry Wash Floodplain

An area adjacent to a dry wash channel that is periodically subject to sudden water and debris flooding.

Elevated Building

Is a non-basement building (i) built, in the case of a building in Zone A1-30, AE, A A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zone A1-30, AE, A, A99, AO, AH B, C, X and D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by San Miguel County.

Expansion to an Existing Manufactured Home Park or Subdivision

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads.

“FEMA”

Is the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Five Hundred (500) Year Flood

A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year(0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

Five Hundred (500) Year Floodplain

The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year-flood.

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of streams, rivers, or other inland water, or (b) the unusual and rapid accumulation or runoff of surface waters from any source, or (c) mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current.)

Flood Fringe

Means that area of the floodplain that lies between the floodway and the boundary of the 100-year floodplain.

Flood Hazard Area

One or more of the following: flood prone area, floodway area or flood fringe area.

Flood Insurance Rate Map (FIRM)

The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study

The official report provided by the Federal Emergency Manage Agency that includes flood profiles, the Flood Insurance Rate Map and the water surface elevation of the base flood.

Flood Prone Area

An area subject to flooding as a result of the occurrence of an intermediate regional flood, the water surface elevations of which have not been determined.

Floodplain

An area adjacent to a stream, which area is subject to flooding as the result of the occurrence of a base flood and which area thus is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes, but is not limited to, (a) mainstream floodplains, (b) debris fan floodplains and (c) dry wash channels and dry wash floodplains.

Floodplain Development Permit

A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community so that it may determine whether such construction or other development

is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management Section. Such permits are issued by the Floodplain Administrator or Board of County Commissioners pursuant to these regulations.

Floodproofing

A combination of structural provision, changes, or adjustments to lands, properties, and structures subject to flooding primarily for the reduction or elimination of flood damages to lands, properties, structures, and contents of buildings in a flood hazard area.

Floodway

The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Freeboard

The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Highest Adjacent Grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Revision Based on Fill (LOMR-F)

FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Section.

Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction

Structures for which the "start of construction" commenced on or after the effective date of this Section.

New Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by San Miguel County.

Non-conforming Use

Any structure, development or land use in existence on the effective date of these regulations and not permitted under the terms and provisions of these regulations.

No-Rise Certification

A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

One Hundred (100) Year Flood

An intermediate regional flood. A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance-flood). The terms “one-hundred-year flood” and “one percent chance flood” are synonymous with the term “100-year flood.” The term does not imply that the flood will necessarily happen once every one hundred years.

One Hundred (100) Year Floodplain

The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

One Percent Flood

An intermediate regional flood.

Person

Any individual, partnership, corporation, association, company, or other public or corporate body, including the federal government, and includes any political subdivision, agency, instrumentality, or corporation of the state.

Recreational Vehicle

A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Special Flood Hazard Area

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Stream

Means any natural channel or depression through which water flows either continuously, intermittently or periodically, including any artificial modification of the natural channel or depression.

Start of Construction

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as

garages or sheds, not occupied as dwelling units or not part of the main structure.

Structure

Means a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvements

Any rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either; (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure.”

Variance

A grant of relief from the requirements of this Section, which permits construction in a manner that would otherwise be prohibited by this Section.

Water Surface Elevation

The projected heights in relation to Mean Sea Level reached by floods of various magnitudes and frequencies in the floodplains of riverine areas.

EXHIBIT 1				
APPLICATION FOR A FLOODPLAIN DEVELOPMENT PERMIT				
Date:				WTL-
12-Digit Parcel ID Number:			Zone District:	
Name of Applicant:				
Address:				
City:		State:		Zip Code
Phone:			Email:	
Subject Property Address:				
Proposed Use/ Project Description:				
Flood Hazard Data		Allowed Use:		Special Use:
Water Course:				
Flood District:	Hazard	_____Floodway	_____Flood Fringe	_____Flood Prone
FIRM Map #:			FIRM Zone:	
Base Flood Elevation(s):				
Required Lowest Floor Elevation:			Floodproofing (minimum 1 ft. above Base Flood Elevation):	
PERMIT ACTION				
_____ Permit Approved: The information submitted for the proposed project was reviewed and is in compliance with approved floodplain management standards.				
_____ Permit Denied: The proposed project does not meet approved floodplain management standards.				
_____ Floodplain Administrator			_____ Date	
_____ Board of County Commissioners			_____ Date	
This permit is valid for use only by the Applicant and may not be transferred. In the event that the Applicant fails to take substantial steps to initiate the above development within twelve (12) months form the date of this permit or, if such steps are taken, in the event the Applicant fails to complete the development with reasonable diligence, this permit may be revoked by the Board of County Commissioners.				
_____ Map Revision Data: Certified documentation by a registered professional engineer of as-built conditions for floodplain alterations were received and submitted to FEMA for a flood insurance map revision.				
_____ Fill Certification: A community official certified the elevation, compaction, slope and slope protection for all fill placed in the floodplain consistent with NFIP regulations Part 65.5 for flood insurance map revisions.				
_____ Elevation Certificate: An elevation Certificate has been completed by a registered professional engineer or land surveyor certifying this elevation. Certified as-built elevation of lowest floor _____; Floodproofing level _____.				

EXHIBIT 2

FEMA Elevation Certificate and Instructions

The current edition of the FEMA National Flood Insurance Program Elevation Certificate and Instructions by Reference. Current Edition Available from the Planning Department or online at [FEMA.gov](https://www.fema.gov)

SECTION 5-29 MEDICAL AND RETAIL MARIJUANA FACILITIES & ESTABLISHMENTS – INCLUDING PLANT COUNT LIMITS FOR BOTH PERSONAL USE/RECREATIONAL AND MEDICAL MARIJUANA CULTIVATION ON RESIDENTIAL AND NON-RESIDENTIAL PROPERTIES IN ALL ZONE DISTRICTS IN UNINCORPORATED SAN MIGUEL COUNTY

5-2901 A. Purpose of Section

The Purpose of the Medical and Retail Marijuana Facilities and Establishments Section is to set forth the general requirements, review procedures, notice provisions and review standards for locating and allowing both Medical and Retail Marijuana Facilities and Establishments (Medical Marijuana Optional Premises Cultivation Operations, Medical Marijuana Infused Products Manufacturing and Retail Cultivation Facility and Retail Production Manufacturing) in unincorporated areas of San Miguel County that are eligible for licensing under the State of Colorado and San Miguel County licensing authority. The County is aware of concerns expressed by some individuals that allowing marijuana establishments may expose them to public safety risks and may also change or alter the character of their neighborhood or the community. In considering these concerns it is the County's position that the most effective way to control marijuana use in the community and to address public safety concerns is to regulate it. In addition to having stringent state and local licensing requirements for both medical and retail marijuana establishments the intent of this section is to strike a reasonable balance of allowing regulated marijuana establishments in limited locations through a thorough public review process that will not expose residents in our residential neighborhoods and in rural areas to safety risks and or dangerous situations.

Through citizen-initiated measures, Colorado voters provided its citizens protections for the cultivation and use of medical marijuana in 2000 and personal use/recreational marijuana in 2012. One of the reasons behind these citizen-initiated measures in addition to "legalizing" marijuana, was to treat and regulate personal use/recreational marijuana similar to the regulation of alcohol. The authority for marijuana cultivation for both personal use/recreational and medical marijuana is generally limited to six plants per person, some provisions allow individuals to grow more plants for medical purposes. In the medical marijuana code, a Medical Marijuana Patient ("Patient") can grow an "extended plant count" if his or her physician makes a recommendation that the Patient has a medical necessity for more than six plants. A Primary Caregiver can grow medical marijuana for each of the patients that he or she serves up to a total of five patients. The State Health Agency (CDPHE) may allow a primary caregiver to serve more than five patients in exceptional circumstances.

The constitutional provisions for both medical and recreational marijuana provide protections for personal marijuana cultivation, but these provisions are silent on the questions of the time, place, and manner, where marijuana plants may be grown or processed for medical or recreational use.

The extended plant count for Patients and Primary Caregiver provisions have created a situation in which individuals are cultivating large quantities of marijuana in unincorporated San Miguel County.

The County is setting plant count limits for both Medical and Personal Use/Recreational Marijuana cultivation on both residential and non-residential properties in all County Zone Districts in accordance with H.B.17-1220 in an effort to reduce the amount of legally grown marijuana that is being diverted to the illegal market.

Implementation of Plant Count Limits to Stop Diversion of Legal Marijuana to the Illegal Market

In adopting the Land Use Code (LUC) plant count restrictions for personal use/ recreational and medical cultivation operations on or in residential and non-residential properties the Board of County Commissioners (BOCC) does hereby specifically find and determine that significant quantities of medical marijuana are being grown by both Medical Marijuana Patients and Primary Caregivers on or in both residential and non-residential properties within unincorporated San Miguel County (SMC). The BOCC also finds that such excessive marijuana plant cultivation by Patients and Primary Caregivers contributes to the unregulated “gray” market for medical marijuana product and negatively affect’s county and state approved and licensed marijuana operations and facilities, since such unlicensed operations do not bear the costs associated with compliance with state and county regulatory requirements. Large scale unregulated marijuana cultivation sites in unincorporated San Miguel County create a public safety issue and are a public nuisance. The purpose of setting plant count limits on or in residential and non-residential properties for personal use/recreational and medical marijuana cultivation in all zone districts is to set reasonable limits through plant counts restrictions on unlicensed, non-regulated, marijuana cultivation as provided for and consistent with the authority provided by H.B. 17-1220, effective January 1, 2018, to stop and or reduce the diversion of legal marijuana to the illegal market.

5-2902 Plant Count Limits

A. Plant Count Limit for Personal Use/Recreational Marijuana on Residential Property

Not more than twelve plants, including not more than six mature plants, shall be cultivated at any time within any Residential Property, as defined herein, unless the Retail Marijuana Cultivation Facility or Establishment growing recreational marijuana has obtained the applicable state and county marijuana cultivation facility or establishment licenses and any applicable County Special Use Permit and or Land Use Code (LUC) approvals. It is unlawful for a person to knowingly cultivate, grow, or produce more than twelve marijuana plants for personal recreational use on or in a residential property; or knowingly allow more than twelve marijuana plants to be cultivated, grown, or produced on or in a residential property. Multiple residences on a property will be treated individually for plant count purposes.

B. Plant Count Limit for Medical Marijuana Cultivation on Residential Property

Not more than twelve plants, including not more than six mature plants, shall be cultivated at any time within any Residential Property, as defined herein, unless the subject Residential Property has been approved by San Miguel County for a Patient or Primary Caregiver to have an “Extended Plant Count” or unless the Medical Marijuana Cultivation Facility or Establishment has obtained the applicable state and county marijuana cultivation facility or operations licenses and any applicable County Special Use Permit and or LUC approvals. Multiple residences on a property will be treated individually for plant count purposes.

Patients and Primary Caregivers, registered with Colorado Department of Health and Environment (CDPHE), may cultivate more than twelve plants but not more than twenty-four plants on a Residential Property subject to County Administrative Approval of an “Extended Plant Count” to cultivate medical marijuana in excess of the twelve plant count limit on Residential Property located within unincorporated SMC subject to the following. Any such extended medical marijuana cultivation located on Residential Property within unincorporated SMC may not exceed the twelve plant count grow limit unless:

1. The Medical Marijuana State issued card holder, including either a medical marijuana patient or a primary caregiver, has obtained San Miguel County Administrative Approval for an Extended Plant Count over twelve (12) plants but not more than twenty-four (24) marijuana plants on a Residential Property, as defined herein.
2. Required State CDPHE license information for a San Miguel County Extended Plant Count that is consistent with the CDPHE state issued License number, License holder name, address of the cultivation, site and the number of marijuana plants to be grown is consistent with the CDPHE licensing. Plant count verification will be determined by the

San Miguel County Sheriff or his designee through the state registration data base CRS 25-1.5-106(7)e(III).

3. A Patient or Primary Caregiver must register with the Colorado Department of Revenue (DOR), the state licensing authority.
4. Information obtained from the CDPHE marijuana registration and/or the DOR state licensing authority data base, which is confidential under Colorado law, will only be used for code compliance purposes.
5. A San Miguel County Extended Plant Count fee may be charged; such fee may include an annual administration fee plus a fee for each plant over 12 plants, as set by Board resolution. Fees may be charged for each growing season, regardless of age of the plant. A compliance tag may be issued for each extended plant.
6. A Primary Caregiver's cultivation of his or her personal marijuana, whether classified as personal use/recreational or medical, is included and counted in determining the maximum number of plants allowed on a Residential Property, which on Residential Property is no more than twelve or no more than twenty four if the County has authorized an "extended marijuana plant count".

C. Cultivation of Medical or Personal Use/Recreational Marijuana on "Non-residential" Property

The cultivation of personal use/recreational unlicensed marijuana by persons, Patients and/or Primary Caregivers on Non-residential Property, for personal use/recreational or medical purposes, where there is not an established residential structure, is **prohibited**.

D. General Standards for both Medical and Recreational Marijuana Cultivation

1. Any and all extended plant count medical and all personal use/recreational marijuana cultivation shall be grown or produced in an Enclosed and Locked Space as defined herein. Enclosed and Locked Spaces may include dwelling units and other primary structures.
2. No person(s) may engage in marijuana cultivation or production in a manner that adversely affects the health or safety of neighboring or nearby property owners, to include but not limited to:
 - a. Having visibility of plants from the exterior of the structure(s) or from a public road or public place; no form of signage is allowed.
 - b. Emitting light pollution, glare or brightness of lighting that impacts an adjoining or neighboring property owner or resident.
 - c. Causing excessive noise or odor in a residential area.

E. Enforcement

Marijuana production prior to the adoption of these regulations that

exceeded the maximum plant count limits set forth herein shall not be considered to be a legal pre-existing non-conforming use for purposes of §30-28-120, C.R.S. There will be no “grandfathering” of the number of plants that personal use/recreational grows, Patients or Primary Caregivers already possess prior to the adoption of these regulations.

Persons who cultivate medical and/or recreational marijuana in excess of the plant count limits set forth in LUC Section 5-29 on Residential Property, as defined herein, and or on non-residential property are subject to criminal prosecution for violation of §18-18-406(3)(a)(I)(II), C.R.S., as it may be amended in future, or under any other applicable statute. This marijuana plant count requirement may be enforced by the San Miguel County Sheriff’s Office and may be criminally prosecuted by the District Attorney’s Office for the Colorado Seventh Judicial District.

5-2903 Department of Revenue Marijuana Enforcement Division (DOR MED) and Local Licensed Medical and Retail Marijuana Facilities and Establishments

These general standards are intended to cause such licensed establishments to be located and developed so they blend into the rural ranching and agricultural landscape, are not highly visible or have the location of these facilities readily apparent to neighboring landowners and the general public. This is proposed to be accomplished by requiring a Two-Step Special Use Permit Review process, requiring increased noticing requirements, including specific time, place and manner, restrictions limiting the location, prescribing distance requirements from Schools, and residential areas, setting size and scale limits on the operations, prohibiting signage, and potentially limiting the number of allowed marijuana establishments within the unincorporated areas of the county. Section 5-29, with the exception of Section 5-2910 Definitions, does not apply to licensed marijuana establishments within the Ilium Industrial Park where Marijuana Facilities and Establishments are allowed by right subject to the applicable provisions in the Lawson Hill PUD Land Use Matrix and Section 5-2910 Definitions.

5-2904 General

Medical Marijuana Optional Premises Cultivation Operations, Medical Marijuana Infused Products Manufacturing, Medical Marijuana Centers and Retail Cultivation Facility, Retail Production Manufacturing, Retail Testing Facility and Off Premises Storage of Retail Marijuana Facility are uses allowed in the Low Intensity Industrial (I) Zone District in the Ilium Valley portion of the Lawson Hill PUD by Administrative Review.

Medical Marijuana Optional Premises Cultivation Operations, Medical

Marijuana Infused Products Manufacturing and Retail Cultivation Facility and Retail Production Manufacturing may be allowed subject to approval of a Two-step Special Use Permit application in the Forestry, Agriculture and Open (F) Zone District, the Wright's Mesa (WM) Zone District and the Wright's Mesa Rural Agricultural (WMRA) Zone District.

Marijuana Facilities/Establishments are not allowed within the Wright's Mesa Master Plan Norwood Future Land Use Plan area.

A Medical or Retail Marijuana establishment may not operate until it is duly licensed by the state licensing authority and approved and licensed by San Miguel County.

The County Retail and Medical Licensing Standards, which are separate documents, shall establish the number of marijuana facilities allowed in the F, WM, and WMRA at any given time.

5-2905

Review Procedures

All applications for Facilities or Establishments to be located within the Forestry, Agriculture and Open (F), Wright's Mesa (WM) and Wright's Mesa Rural Agricultural (WMRA) Zone Districts are subject to a Two-step Planning Commission and Board of County Commissioner review. The process will consider the zoning, type, location, size and scale, the proximity to a Residential Area, and will be reviewed for compliance with the provisions and the standards set forth herein, as well as the standards of the applicable Zone District.

5-2906

Application Requirements

A. Pre-application Conference with Staff

Prior to the submittal of an application for a marijuana facility the applicant shall schedule a pre-application conference with the Planning Department staff. The applicant will provide information on the proposed facility, including the location. Staff may conduct a site visit to the proposed location to determine what specific issues may need to be addressed in addition to the following General Requirements.

B. General Requirements

1. The use must comply with all applicable county and state regulations including but not limited to state and local licensing regulations for Facilities and Establishments.
2. Retail Marijuana Stores and Medical Marijuana Centers are prohibited within the unincorporated areas of the County, except as an Accessory Use to a permitted and licensed Retail Marijuana or

Medical Cultivation facility or Retail or Medical Production Manufacturing facility within the Ilium Industrial Park.

3. The use shall be located within a building or Substantial Greenhouse and shall be designed to blend into the surrounding rural landscape.
4. Storage of Equipment. All equipment must be stored inside the structure or within an enclosed fenced area.
5. Water. The applicant must demonstrate a legal and physically adequate water supply for the proposed use. Applicant must complete the State of Colorado, Office of the State Engineer Water Supply Information Summary form and submit this form with the application for a Special Use Permit. This completed form will be referred by staff to the Office of the State Engineer, Division of Water Resources for review and comment.
6. The following must be addressed as part of any application:
 - a. Site Plan: The site plan shall show the location of the building containing the licensed premises and provide distances from the building to adjacent buildings, describe all existing uses within the building and all adjacent buildings, parking spaces, property lines, and physical land features, such as streams, driveways, and roadways.
 - b. Location Plan. The location plan shall show all uses located within one-half (½) mile of the property boundary line of the premises on which the Retail or Medical Marijuana Establishment is located, including, but not limited to: any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or residential child care facility; or a drug or alcohol rehabilitation center. The distance measurement shall be a direct line between the closest point of the premises' boundary and the closest point on the neighboring lot or parcel containing the specified use.
 - c. Building Plan. The plans for the interior of the Marijuana Establishment shall include a detailed floor plan layout and information needed to demonstrate compliance with the Local Licensing standards and the applicable requirements of the County's adopted Building Code(s).
 - d. Location of existing residential structures within ½ mile.
 - e. Number of proposed employees, both permanent and temporary.
 - f. A waste disposal plan.
 - g. A noxious weed control plan.
 - h. An odor abatement plan designed to keep all odors from the proposed use from emanating beyond the subject property lines to prevent impacts on adjacent properties.

C. Scenic Quality Mitigation Plan

1. A plan for mitigation of visual impacts or other appropriate aesthetic impacts of the proposed access, structure(s), fencing, landscaping, and ancillary site improvements and use to achieve the goal set forth in Section 5-2301 A. Purpose.
2. Visual mitigation techniques such as coloring, screening and landscaping. Use of natural colors and native vegetation is encouraged.
3. Provide a lighting plan. All exterior lighting shall be either directed toward the ground or the surface of a building. Lighting shall be shielded to prevent direct visibility of light bulbs from off-site. Motion detector security lighting may be approved if the lights are fully shielded and down lighted. High intensity sodium vapor and similar lighting is prohibited.
4. Signs. No advertising or identification sign is permitted anywhere upon or attached to the facility or property.
5. The level of mitigation required will depend on the location of the proposed facility in relation to topographic features, important visual features, proximity to residential neighborhoods and other sensitive visual areas. Placement of structures in treed or screened areas rather than open meadow areas is preferred in order to reduce the visibility of such facilities to the public to the maximum extent reasonably feasible.

D. Area and Bulk Requirements

1. Minimum Lot Area: 5 acres. The minimum lot area requirement for a Medical Marijuana Infused Product Manufacturer and/or a Retail Marijuana Products Manufacturing Facility shall conform to the Area and Bulk requirements of the underlying zone district. Marijuana Product Manufacturing may also be considered through a Two-step SUP Review process on legally created substandard sized parcels if the application meets all other applicable Land Use Code requirements.
2. Maximum Size for a Proposed Building or Greenhouse: 3,000 square feet. The maximum square footage includes all marijuana related uses whether a single use or combined uses. Parcels 35-acres or larger may be allowed up to three separate 3,000 sq. ft. structures depending on the parcel location, size and the applicants ability to comply with all applicable standards.
3. Setbacks:
 - a. A minimum setback for a marijuana cultivation facility is 50 feet from all property lines regardless of zone district.

- b. In addition the following setbacks shall also apply:
 - (i) Any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or licensed residential child care facility; or a drug or alcohol rehabilitation center must be located a minimum of one-half (½) mile from the nearest property line of the parcel. The distance measurement shall be a direct line between the closest point of the structure and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
 - (ii) Setbacks from a private camp or recreational facility frequented by minors: a minimum of 1,000 feet from the nearest property line of the land. The distance measurement shall be a direct line between the closest point of the structure and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
 - (iii) Setbacks from Residential Areas: New facilities may not be located within one-half (½) mile of a Residential Area,
- c. Setbacks may be increased or decreased during the review and evaluation of the Special Use Permit.

5-2907 Noticing Requirements

Two-step reviews require that the notice to adjacent and affected property owners include the date, location and contact information for the time of the public meeting. The notice shall also include a provision that encourages the adjacent and affected property owners to provide written comments no later than one-week prior to the meeting date in order to be included in the meeting packets, although comments will be accepted up to the public meeting date.

The following noticing procedures shall apply:

1. The owners, as recorded in the records of the county, of any land adjacent to or located within one-half (½) mile of any portion of the boundary of the parcel or tract containing the subject site and owners of each parcel of real property adjacent to or through which the designated Access Road extends from the nearest public road. Such notice shall be sent by the applicant or Planning Department at the applicant's expense at least 20 days prior to the scheduled meeting date. Email notice to adjacent and affected property owners is encouraged if Email addresses are available from the County Assessor's Office. Persons notified and the distance of notice may be

increased at the discretion of the County based upon size and scale of the proposed Facility, surrounding land use pattern and perceived impacts.

In addition to the required written notice under this provision, the applicant shall make a good faith effort (at a minimum contacting the County Planning Department and checking the records of the County Clerk and Records Office) to ascertain if any of the landowners required to be provided written notice, as part of an application, are also members of a condominium association or homeowner's association. If the result of the good faith examination identifies the existence of such condominium association or homeowner's association, the applicant shall provide written notice to these associations in the same manner as other landowners. Email notice to these associations is encouraged if Email addresses are available from the County.

2. The public notice shall include the following:
 - (a) A description of the location of the facility (including a legal and practical locational description and a vicinity map), a general site plan, a vicinity map which includes the designated Access Road to the facility, and the proposed activity under review.
 - (b) Time and place of the public meeting.
 - (c) The name and address of the applicant and/or its designated agent, and a statement that additional information may be obtained from the Planning Department.
3. Posting of notice shall be made by the applicant by posting a sign (to be obtained from the County) in a conspicuous place on the property or closest public roadway at least 20 days prior to the scheduled meeting date.
4. The applicant shall present proof of such notice by submitting a copy of the letter and a list of the landowners notified, together with an affidavit attesting to the mailing of such notice executed by the person responsible for providing such written notice, to the Planning Department.

5-2908 Commencement, Duration and Modification of Special Use Permit

The Special Use Permit shall become effective on the date of written approval by the County.

Special Use Permits are issued to the applicant and do not run with the land.

If an applicant desires to modify the subject Facility by changes to equipment, site layout, approved operating plan, etc. an amendment to the original application shall be submitted for review and approval. The Planning Department shall determine whether the modification has substantial impacts or is considered a minor amendment pursuant to County adopted standards for Medical and Retail Marijuana uses.

Special Use Permit approval shall only be valid as long as the applicant holds a current State and County License for the approved use.

5-2909 Disposal of Marijuana

Marijuana waste shall be stored, secured, and managed in accordance with applicable state laws, including but not limited to rules promulgated by the Colorado Medical Marijuana Enforcement Division and the Colorado Department of Revenue-Marijuana Enforcement Division (DOR-MED) in effect and as amended from time to time hereinafter.

5-2910 Definitions

Enclosed

Means a permanent or semi-permanent area covered and surrounded on all sides. Temporary opening of windows and doors or the temporary removal of a wall or ceiling panels does not convert the area into an unenclosed space.

Extended Plant Count

Means County approval given to either a Medical Marijuana Patient or a Primary Caregiver to allow a plant count over twelve (12) marijuana plants but not more than twenty-four (24) plants on a Residential property, which shall only be applicable for Patients whose physicians have recommended such an extended plant count as being medically necessary to address the Patient's debilitating medical condition.

Local Licensing Standards

Means Local Licensing Standards as adopted and amended by the Board of County Commissioners.

Locked Space

Means secured at all points of ingress or egress with a locking mechanism designed to limit access, such as a key or combination lock.

Medical Marijuana

Means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

Medical Marijuana Business

Means a Medical Marijuana Center, a Medical Marijuana Infused Product Manufacturer, or an Optional Premises Cultivation Operation.

Medical Marijuana Center

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402 C.R.S., and sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

Medical Marijuana Infused Product

Means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the “Colorado Food and Drug Act,” part 4 of Article 5 of Title 25, C.R.S.

Medical Marijuana Infused Product Manufacturer

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

Medical Marijuana Patient (Patient)

Means a person who has applied for and is entitled to receive a registry identification card with the Colorado Department of Public Health and Environment.

Non-residential Property

Means all other property than Residential Property as defined herein.

Optional Premises Cultivation Operation

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

Primary Caregiver

Means a person who is 18 years of age or older who has significant responsibility for managing the well-being of a patient who has a debilitating medical condition. Primary caregivers who cultivate medical marijuana for their patients must register with CDPHE and the DOR-MED. In order to be a primary caregiver who cultivates medical marijuana for his or her patients or transports medical marijuana for his or her patients, he or she shall also register with the state licensing authority and comply with all local laws, regulations, and zoning and use restrictions.

Personal Use/Recreational Marijuana

Means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated and/or consumed by a person twenty-one years of

age or older for personal use by persons twenty-one years of age or older, but not for resale to others. Such Marijuana does not include industrial hemp.

Residential Area

Means an area as depicted on the maps attached as Exhibit I to this Section. These mapped areas may be amended as necessary by the County. New licensed marijuana facilities may not be located within one-half (½) mile of a Residential Area. A Residential Area may be zoned something other than WM, WMRA and F.

Residential Property

Means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. “Residential Property” also includes the real property surrounding a structure, owned in common with the structure that includes one or more single units providing complete independent living facilities.

Retail Marijuana

Means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. “Retail Marijuana” does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Retail Marijuana Cultivation Facility

Means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.

Retail Marijuana Establishment

Means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

Retail Marijuana Product

Means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

Retail Marijuana Products Manufacturing Facility

Means an entity licensed to purchase Retail Marijuana, manufacture, prepare, and package Retail Marijuana Product, and sell Retail Marijuana and Retail Marijuana Product to other Retail Marijuana Products Manufacturing Facilities and to Retail Marijuana Stores, but not to consumers.

Retail Marijuana Store

Means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

Retail Marijuana Testing Facility

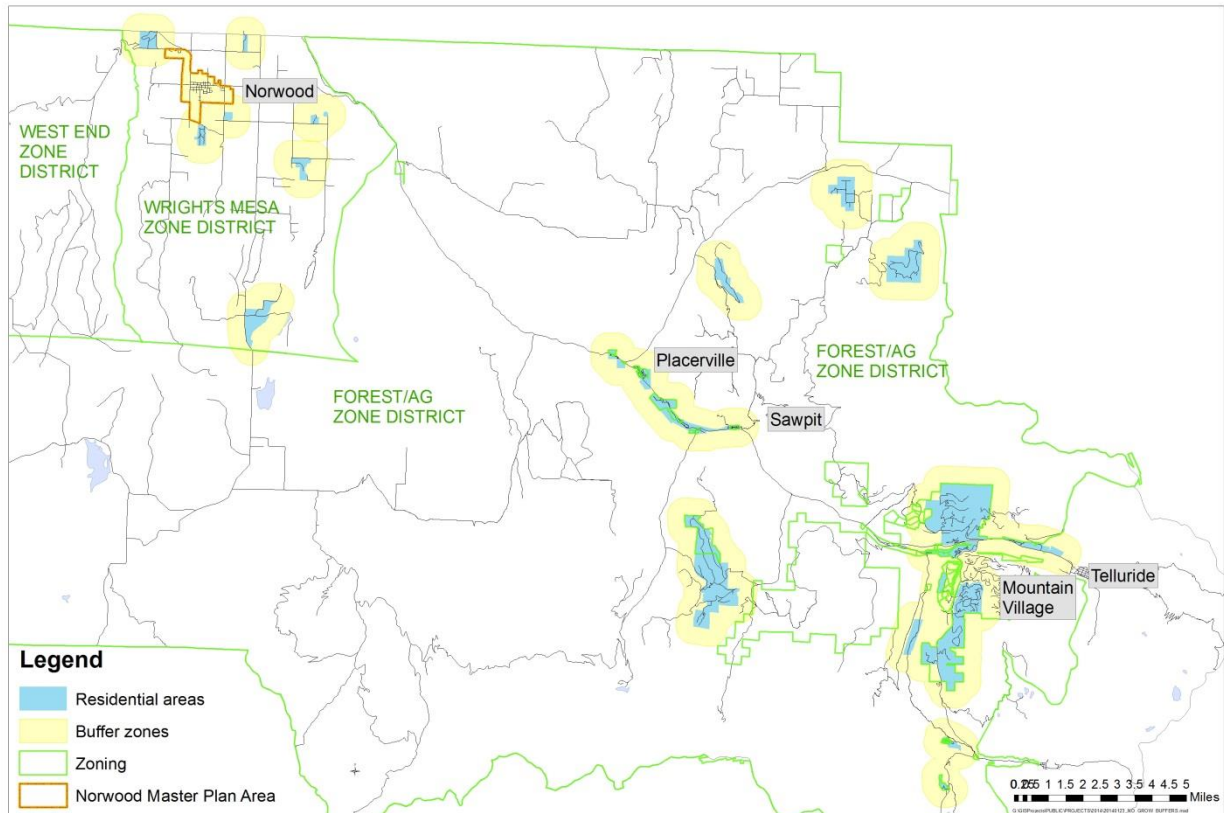
Means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Retail Marijuana, Retail Marijuana Products and Retail Marijuana Concentrate for contaminants and potency.

Substantial Greenhouse

A solid, secured structure constructed to the design requirements for imposed loads (e.g., wind, snow, seismic activity) as required by the International Building Code. The exterior wall and roof coverings must be materials such as concrete, glass, metal, wood, polycarbonates or any such material that is tested and approved for such use. A hoop house, high tunnel or other similar structure that is covered or uses a membrane or a soft pliable sheet, i.e. plastic sheeting, visqueen, tarps, canvas, polyethylene films or similar materials is NOT a Substantial Greenhouse for this definition.

EXHIBIT 1

Residential Areas and Residential Area Buffer Zones



A full size version of this map may be viewed on the County webMap at
www.sanmiguelcounty.org

5-30: SHORT-TERM RENTAL

5-3001 General

This section shall govern the use and occupancy of a Single-family Residence, Condominium Unit or Duplex Unit by a third party for compensation for less than 30 consecutive days. Accessory Dwelling Units and/or Caretaker Units and County R-1 Housing Deed-Restricted Units are not eligible for Short-Term Rental. The following standards do not apply in the West End (WE) Zone District. Short-Term Rentals are prohibited in the Open Space (OS) Zone District, the High Country Area (HCA) Zone District, and the Affordable Housing Planned Unit Development (AHPUD) Zone District.

5-3001 A. Purpose

The purpose of this Section is to promote public health, safety and general welfare by establishing standards for rental of a Primary Residence for less than 30 days. These regulations are also intended to ensure that individuals or entities that are Short-Term Renting in the unincorporated areas of San Miguel County are paying the requisite State Sales Tax and County Lodging Tax. Any individual or entity advertising a residential unit for Short-Term Rental in any media including the Internet or who has hired a property manager to handle the Short-Term Renting of a residence is required to comply with the standards in Section 5-3001 and obtain a County Short-Term Rental Permit.

5-3001 B. Standards

- I. County Permit. The owner(s) must complete the application for and obtain a Short-Term Rental Permit approval from the County. An approved Permit is valid for a two-year period and must be renewed every two years.
- II. Registering with the Colorado Department of Revenue (CDOR). Short-Term Rental of a residential unit requires the property owner to file with the CDOR and provide the County Planning Department with a copy of their State Sales Tax License.
- III. The County Short-Term Rental Permit number must appear in a conspicuous place on all Short-Term Rental advertising materials.
- IV. If the Short-Term Rental is not served by a municipal or community sewer system the Dwelling must have an onsite wastewater system recognized and approved by the County Environmental Health Department according to their applicable regulations. Existing systems do not need to be repaired or replaced unless required by the County Environmental Health Department.

- V. Occupancy is limited to two persons per bedroom or sleeping room unless the unit is on central sewer or additional occupancy has been incorporated into the capacity of the onsite wastewater system. In this case, the occupancy shall be limited to the number of people for which a County approved onsite wastewater system has been designed but in no case shall the occupancy exceed ten people. Additional persons may be authorized through a specific Administrative Review process where it is determined that the OWS or ISDS is adequate for the proposed use.
- VI. The rental residence will be inspected by the Building Department for surface type safety concerns such as emergency escape windows in bedrooms, smoke and CO detectors, and ingress/egress paths of travel for a fee determined by the current Building Code as adopted by the Board of County Commissioners on the initiation of an application for a Short-Term Rental Permit. Subsequent renewals at two year intervals will only require an affidavit signed by the applicant that the unit complies with all safety standards as listed in this Section.
- VII. Dwellings shall be equipped with operable smoke alarms and carbon monoxide alarms pursuant to State Statute (HB 091091) and the current County's current adopted building code. Dwellings must contain an operable fire extinguisher in proximity to the kitchen.
- VIII. Parking Requirement: One space per bedroom located on the subject property.
- IX. Dwellings shall have adequate trash containers sufficient to serve the guests. All trash containers must be in a bear proof enclosed structure such as a garage, barn, or shed or a waste management metal container with a bear proof latch.
- X. The property owner/manager shall provide each rental guest with a copy of "Being a Good Neighbor" and shall provide the County and the guest with the name, address and contact information, including a 24-hour contact telephone number of a current local contact person.
- XI. The property owner shall notify each adjacent property owner in writing of the name and contact information for the 24-hour local contact and shall do the same notification when local contact information changes.

- XII. It is the property owner's responsibility to determine whether there are private declarations and covenants within their subdivision that prohibits or further restricts the Short-Term Rental of residences.
- XIII. The County Permit authorizes Short-Term Rental of a Primary Residence but the County is not responsible for the Short-Term Rental. Any concerns a renter has should be addressed to the local contact person or property owner.

5-3001 C. Revocation of County Permit

Any short term rental permit that the county issues pursuant to LUC Section 5-3001 B. shall constitute a Development Permit for purposes of LUC Section 1-301 and shall be subject to revocation in accordance with LUC Section 3-101 for a permittee's failure to comply with any of the terms and/or conditions of the permit's approval, as well as any applicable LUC provisions, including, but not limited to LUC Section 5-3001 B. Standards.